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ISSN 1180-4319

Legislative Assembly of Ontario

First Session, 39th Parliament

Assemblée législative de l'Ontario

Première session, 39^e législature

Official Report of Debates (Hansard)

Wednesday 12 December 2007

Journal des débats (Hansard)

Mercredi 12 décembre 2007

Standing committee on
regulations and private bills

Comité permanent des
règlements et des projets
de loi d'intérêt privé

Organization

Organisation

Chair: Michael Prue
Clerk: Sylwia Przezdziecki

Président : Michael Prue
Greffière : Sylwia Przezdziecki

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LEGISLATIVE ASSEMBLY OF ONTARIO

**STANDING COMMITTEE
ON REGULATIONS
AND PRIVATE BILLS**

Wednesday 12 December 2007

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

**COMITÉ PERMANENT DES
RÈGLEMENTS ET DES PROJETS DE LOI
D'INTÉRÊT PRIVÉ**

Mercredi 12 décembre 2007

The committee met at 1009 in committee room 1.

ELECTION OF CHAIR

The Clerk of the Committee (Ms. Sylwia Przedziecki): Good morning, everyone. I'd like to welcome all the members to the standing committee on regulations and private bills.

It is my duty to call upon you to elect a Chair. Are there any nominations?

Mr. Bill Murdoch: I move that a sub—oh no, this is the subcommittee, so we might want to vote for the Chair. You go ahead. I wanted to get out of here quickly.

Mr. Mike Colle: I would like to nominate the member from Beaches—East York for the position of Chair of this committee.

The Clerk of the Committee (Ms. Sylwia Przedziecki): Does the member accept the nomination?

Mr. Michael Prue: I do, with thanks to my nominator.

The Clerk of the Committee (Ms. Sylwia Przedziecki): Are there any further nominations? There being no further nominations, I declare the nominations closed and Mr. Prue elected Chair of the committee.

The Chair (Mr. Michael Prue): Thank you to everyone.

ELECTION OF VICE-CHAIR

The Chair (Mr. Michael Prue): It is now my duty to call upon you to elect a Vice-Chair. Are there any nominations?

Mr. Mario Sergio: First of all, let me congratulate you on becoming the Chair in this very important decision that we've just made. Congratulations to you.

I would like to nominate Mr. Paul Miller as the Vice-Chair of this committee.

The Chair (Mr. Michael Prue): Does the member accept the nomination?

Mr. Paul Miller: Yes, I do, and thanks to my nominator.

The Chair (Mr. Michael Prue): Are there any further nominations? There being no further nominations, I declare the nominations closed and Mr. Miller elected Vice-Chair of the committee.

APPOINTMENT OF SUBCOMMITTEE

The Chair (Mr. Michael Prue): I believe Mr. Murdoch—

Mr. Bill Murdoch: *[Inaudible.]* That's a new question, isn't it? You never thought it would happen.

The Chair (Mr. Michael Prue): I believe that you wish to—well—

Mr. Bill Murdoch: Don't let me get you excited right off the bat, but congratulations on being Chair. I'll also inform you that at the next meeting I'm sure you'll have Pepsi or Coke here for us to drink.

The Chair (Mr. Michael Prue): Yes.

Mr. Bill Murdoch: All right, that's fine.

The Chair (Mr. Michael Prue): He's another aficionado.

Mr. Bill Murdoch: Anyway, I have a motion that a subcommittee on committee business be appointed to meet from time to time at the call of the Chair, or at the request of a member thereof, to consider and report to the committee on the business of the committee;

That the presence of all members of the subcommittee is necessary to constitute a meeting; and

That the subcommittee be composed of the following members: the Chair as Chair; Mr. Sergio; Mr. Martiniuk; and Mr. Miller (Hamilton East—Stoney Creek); and that substitution be permitted on the subcommittee.

The Chair (Mr. Michael Prue): You've heard the motion. Is there any discussion or comments? Seeing none, all those in favour of the motion? Carried.

Any other business?

Mr. Bill Murdoch: I move we adjourn.

The Chair (Mr. Michael Prue): We have a motion of adjournment. All those in favour? Opposed? That carries. Meeting adjourned.

The committee adjourned at 1012.

CONTENTS

Wednesday 12 December 2007

Election of Chair	T-1
Election of Vice-Chair.....	T-1
Appointment of subcommittee.....	T-1

STANDING COMMITTEE ON REGULATIONS AND PRIVATE BILLS

Chair / Président

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Vice-Chair / Vice-Président

Mr. Paul Miller (Hamilton East-Stoney Creek / Hamilton-Est-Stoney Creek ND)

Mr. Bas Balkissoon (Scarborough-Rouge River L)

Mr. Mike Colle (Eglinton-Lawrence L)

Mr. Kim Craitor (Niagara Falls L)

Mr. Gerry Martiniuk (Cambridge PC)

Mr. Paul Miller (Hamilton East-Stoney Creek / Hamilton-Est-Stoney Creek ND)

Mr. Bill Murdoch (Bruce-Grey-Owen Sound PC)

Mr. Michael Prue (Beaches-East York ND)

Mr. Tony Ruprecht (Davenport L)

Mr. Mario Sergio (York West / York-Ouest L)

Substitutions / Membres remplaçants

Ms. Leeana Pendergast (Kitchener-Conestoga L)

Clerk / Greffière

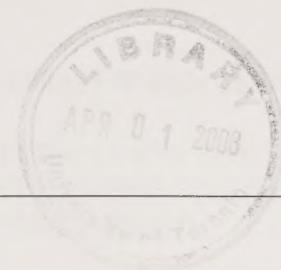
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Toronto ON M7A 1A2
Telephone 416-325-7400; fax 416-325-7430
Published by the Legislative Assembly of Ontario



Service du Journal des débats et d'interprétation
Salle 500, aile ouest, Édifice du Parlement
111, rue Wellesley ouest, Queen's Park
Toronto ON M7A 1A2
Téléphone, 416-325-7400; télécopieur, 416-325-7430
Publié par l'Assemblée législative de l'Ontario

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ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

**COMITÉ PERMANENT DES
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D'INTÉRÊT PRIVÉ**

Mercredi 26 mars 2008

The committee met at 1004 in committee room 1.

872440 ONTARIO INC. ACT, 2008

Consideration of Bill Pr4, An Act to revive 872440 Ontario Inc.

The Chair (Mr. Michael Prue): The meeting of the standing committee on regulations and private bills is called to order.

The first bill is Bill Pr4, An Act to revive 872440 Ontario Inc. The sponsor, who is here today, is Ms. Laurie Scott, MPP, on behalf of Garfield Dunlop. Would the sponsor and the applicant please come forward. Would the applicant and others introduce themselves for the purposes of Hansard.

Ms. Rosemarie Bain: My name is Rosemarie Bain.

Mr. Owen Thompson: Ms. Bain is the applicant. I am Owen Thompson. I am counsel for Ms. Bain and for the corporation seeking to be revived.

The Chair (Mr. Michael Prue): Thank you. Ms. Scott, do you have any comments?

Ms. Laurie Scott: I am here on behalf of Garfield Dunlop. Rosemarie is here with her solicitor. He's just been introduced and he's going to make a brief statement in respect to Bill Pr4, An Act to revive 872440 Ontario Inc.

The Chair (Mr. Michael Prue): Mr. Thompson.

Mr. Owen Thompson: This is just a bill to revive a corporation. The corporation was cancelled for failure to comply with the Business Corporations Act of Ontario.

As a result of changes of ownership in the corporation, a solicitor who was involved failed to file a notice of change. The board of directors had changed. The Ontario government business corporations branch was not advised of the change. As a result of the corporation having no directors registered, the corporation was cancelled.

Notices of impending cancellation were sent to an old mailing address and not brought to Ms. Bain's attention as the new owner. As a result, Ms. Bain is now seeking to have the corporation revived, because at the time of cancellation it did own the property.

The Chair (Mr. Michael Prue): Are there any interested parties to speak to this? Are there any other interested parties? Seeing none, parliamentary assistant, any words from the government?

Mr. Mario Sergio: Thank you, Mr. Chairman. I'd like to compliment the member who has sponsored the bill. The Ministry of Finance has no problem with the bill. The Ministry of Government Services, the Ministry of Housing and the Public Guardian and Trustee as well have no problem. I don't have a problem. I don't see any members having a problem with the bill, so I'll be happy if it goes through.

The Chair (Mr. Michael Prue): Any questions or comments from members? Mr. Miller?

Mr. Paul Miller: Yes. I'd just like to know—I guess there was a communication breakdown between the corporation and the government. Are there any guidelines that we may recommend in the future so people could get proper notification and this unfortunate incident won't happen again? Are there any possible recommendations that we could make?

The Chair (Mr. Michael Prue): You're asking that question of whom—of the government?

Mr. Paul Miller: Yes.

Mr. Mario Sergio: It's not up to the government to watch out if they file or they don't file. It's up to the corporations themselves to be always on file properly, accordingly. It's not up to us.

Mr. Paul Miller: Yes, well, I realize it's not up to the government, but the guidelines should be established so that either side is not responsible for the lack of communication so that in future we don't have to put these people through this again.

Mr. Mario Sergio: It's their own doing.

The Chair (Mr. Michael Prue): Mr. Thompson, go ahead.

Mr. Owen Thompson: Coming into this matter after the fact and replacing the original corporate counsel, I do believe that the failure was on behalf of Ms. Bain's former solicitor to file the necessary corporate return. The only comment that I may add to your suggestion is that when I sought to revive this corporation—there are two methods of reviving a corporation, depending on what the reason for cancellation was. One is a fairly simple matter of making sure that all corporate tax returns are up to date and then filing with what used to be the Ministry of Consumer and Commercial Relations articles of revival. That was not available in this case.

Unfortunately, in doing the research on this process I did discover that this is a fairly common occurrence

across Ontario and there appear to be a number of these matters coming forward every year. Perhaps a suggestion could be made to somehow take this revival process out of a special bill or a private bill, requiring a law of the province, and amend the Business Corporations Act to provide for a more efficient and reliable process.

Mr. Paul Miller: Thank you for your input. I think that might be a good suggestion, that the law society is made aware of this and that we can do something along those lines.

The Chair (Mr. Michael Prue): Any other questions? Any other comments? Seeing none, are the members ready to vote? Okay. There are a number of procedural items here.

Shall section 1 carry? Carried.

Shall section 2 carry? Carried.

Shall section 3, the short title, carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? Carried.

That item is finished; on to the next one.

1010

716056 ONTARIO LIMITED ACT, 2008

Consideration of Bill Pr6, An Act to revive 716056 Ontario Limited.

The Chair (Mr. Michael Prue): The next item is Bill Pr6, An Act to revive 716056 Ontario Limited. The sponsor is Norm Miller, MPP. Norm and the applicant, as well, please come forward. For the purposes of Hansard, would the applicant please introduce himself.

Mr. Wayne Wolfe: Wayne Wolfe.

Mr. Norm Miller: This bill is to revive a corporation that was inadvertently dissolved. It's pretty straightforward. I'll let Wayne add to that.

Mr. Wayne Wolfe: It was a voluntary dissolution, simply because they had forgotten that two units remained in their ownership. At the time, they had no value and they simply forgot about them.

The Chair (Mr. Michael Prue): Are there any interested parties from the audience who wish to speak to this item? The parliamentary assistant.

Mr. Mario Sergio: It's a very similar situation. I wish that there would be an easier way which would save time for the applicant and for ourselves, as well. The ministry doesn't have any concerns with respect to the application, and we are supporting it.

The Chair (Mr. Michael Prue): Questions or comments from committee members?

Mr. Paul Miller: Obviously, this problem has been repeated, so all I can say is ditto, and hopefully we can rectify this situation with some memos to the proper authorities.

Mr. Gerry Martiniuk: Perhaps we can follow up on Mr. Miller's suggestion.

There is a right of revivership under the corporations act, and unfortunately in many of these cases, that is not available. Why was it not available in your case?

Mr. Wayne Wolfe: Because it was a voluntary dissolution.

Mr. Gerry Martiniuk: Would the committee consider requesting counsel to prepare a report for us itemizing the matters that do not come under the act—the right of revivership, which is an administrative remedy—and perhaps we can then consider whether some of them should and make recommendations to the ministry? Is that a fair thing to do?

Mr. Mario Sergio: I have no problem.

The Chair (Mr. Michael Prue): Can staff prepare that for the next meeting?

Ms. Susan Klein: Sure.

Mr. Mario Sergio: I'll report to committee.

Mr. Gerry Martiniuk: We've had a number of reviverships coming before at great expense and time—I think time is unfortunate—and perhaps you could take a look at them to see why they would not fit under the administrative remedy rather than this remedy.

Ms. Susan Klein: Sure. If you want any policy background, I would ask for advice from the Ministry of Government and Consumer Services, which administers the corporate legislation.

Mr. Gerry Martiniuk: Fine.

Mr. Tony Ruprecht: I remember being in this committee about 20 years ago, and the same issues keep coming up. We're going through the same process, and in the end, we end up here with the same situation. I want to refer you to one thing, and that is to study the recommendations of the cut-the-red-tape committee. Have a look at that and see what recommendations they came up with a few years ago.

The Chair (Mr. Michael Prue): All good suggestions.

We'll make sure that's available for all members by the time of the next meeting.

Are the members ready to vote?

Shall section 1 carry? Carried.

Shall section 2 carry? Carried.

Shall section 3 carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? Carried.

Thank you very much. On to the next item.

Mr. Norm Miller: Thank you. A rare situation of unanimity around this place.

ST. ANDREW'S UNITED CHURCH (TORONTO) ACT, 2008

Consideration of Bill Pr3, An Act respecting St. Andrew's Congregation of the United Church of Canada at Toronto.

The Chair (Mr. Michael Prue): Okay, we are now on to Bill Pr3, An Act Respecting St. Andrew's Con-

gregation of the United Church of Canada at Toronto, sponsor David Zimmer, MPP. Would Mr. Zimmer come forward, along with the applicant or applicants.

Mr. David Zimmer: Thank you very much, Mr. Chair.

The Chair (Mr. Michael Prue): Just while you're getting settled here: For the purposes of Hansard, if the three gentlemen could introduce themselves?

Mr. Martin Campbell: I'd be pleased to introduce our group. My name is Martin Campbell. I'm chair of the board of trustees of St. Andrew's United Church. To my right is Reverend Dr. John Hartley. He was minister of the church for some 20 years and retired last year. Our counsel, J. Paul Mills, is also present.

The Chair (Mr. Michael Prue): Good morning.

Mr. David Zimmer: I'm very pleased to sponsor this private bill. It deals with a sought exemption of some church lands owned by St. Andrew's Church on Bloor Street. They're seeking an exemption from the Religious Organizations' Lands Act. I'm going to ask Mr. Campbell, chair of the board of trustees, and perhaps his counsel, to elaborate just what's involved here.

Mr. Martin Campbell: Thank you, Mr. Zimmer. Mr. Chair, members, thank you very much for hearing us this morning. In addition to the members you see before you, I should also give the regrets of our current minister, who's now on study leave and wishes he could be here this morning to see this through.

I should also just mention Dr. Richard Davidson, who's been associated with St. Andrew's for over 90 years. He's looking forward to the next 100 years. He's sitting just behind in the public gallery. So he has had a very deep interest in this bill.

In essence, this is an application for an exemption of St. Andrew's commercial property from the 40-year lease limit set out in the Religious Organizations' Lands Act. You have before you a sketch map of the site with photographs showing the property. You'll see on the sketch map there are two parts to the church lands: the commercial part, which is the top half of the property, and the church part, which is the lower half of the property. We want to get exemption for the church part of the property for 100 years. Right now, the land is leased commercially. We derive significant rents from the land. We use a vast portion of those rents for charitable work in our community. You have a brochure before you which lists some of the recipients of those grants.

The Religious Organizations' Lands Act applies to unincorporated associations. St. Andrew's is unincorporated. The act prohibits organizations such as ours from leasing commercial land for anything over 40 years. As you can imagine, if you take a look at the building in the photographs, that's a substantial building, which is really going to be there for well over 40 years.

When the church first entered into the ground lease some 25, 26 years ago, the then trustees of the church understood that the 40-year provision of the Religious Organizations' Lands Act was applicable and provided for a change in the law that would enable the tenants and

the landlord to continue the lease. So we are today appearing before you to ask for exemption from the Religious Organizations' Lands Act so that we can continue our lease for approximately 100 years. If you have any questions about it I'm sure our team can do our best to respond.

The Chair (Mr. Michael Prue): First of all, I have to ask: Are there any interested parties present who wish to make a deputation? Seeing none, parliamentary assistant?

Mr. Mario Sergio: Again, with this bill here, it's minor considerations and specific exemptions. Both ministries, finance and the Attorney General, as well as municipal affairs and housing, have no problem with the bill and with their request for the exemption. Therefore, we will support it. I want to thank the member, David Zimmer, for bringing the bill forward.

The Chair (Mr. Michael Prue): Questions from committee members?

1020

Mr. Gerry Martiniuk: I have a question for counsel. I'm not familiar with the act, in particular section 10, which deals with trustees of an organized religious group. But dealing with that act, I assume that in 1981, when Bramalea leased it, they obtained the necessary severance, so there's no mention of that in any of the material here. I take it the church's lands are adjacent to the commercial property.

Mr. Martin Campbell: That's right. The church portion of the lands is the lower part of the sketch map.

Mr. Gerry Martiniuk: Yes. So I assume the severance was obtained, because the lease was for more than 21 years. However, this act deals with a 40-year limit, which I assume deals with mortmain, and perhaps you might tell us the public policy behind the statute.

Ms. Susan Klein: I'm not sure I could. In the materials, I think there's a letter from the Office of the Public Guardian and Trustee that sets out the policy behind section 10 of the Religious Organizations' Lands Act, but this is not my area of expertise. This isn't a policy that I'm familiar with. It's toward the back of the compendium, a letter dated Tuesday, April 24, 2007.

Mr. Gerry Martiniuk: I'm sorry. What is it dated? May 2?

Ms. Susan Klein: No, it's Tuesday, April 24, 2007. I think it's just behind that May 2 one.

Mr. Martin Campbell: Mr. Chair, our counsel may be able to help you with this. This is a somewhat esoteric area of law.

The Chair (Mr. Michael Prue): If you can assist, we would appreciate that.

Mr. J. Paul Mills: I think the answer really is, Mr. Martiniuk, in the letter of the PGT. We had extensive discussions with that office in part of the process. Ultimately, they were satisfied to recommend approval of this exemption in the particular circumstances. The Mortmain and Charitable Uses Act which you refer to is long gone, fortunately. ROLA is a partial holdover from some of the provisions of that old act.

It's hard for me to understand what the legislative intent of this old statute was. There are various explanations about why the 40-year limit. It seems to me it's quite arbitrary. It could have been 50, it could have been 30, it could have been 100, but for some reason there was a 40-year limit put in it, and it only applies to unincorporated religious organizations.

So if I may, I think really what today is about and what this private act is about is fairness. Most of you, I'm sure, are familiar with Holy Trinity Church, which appears in the middle of the Eaton Centre in downtown Toronto. That's an Anglican church. They had the ability to enter into what I believe is a 100-year or 99-year lease with respect to its property without going through the process we are because it happens to be part of a corporation—the Synod of Toronto, I think it's called, or something like that—and that legislation specifically allowed leasing. St. Andrew's United Church is not part of a corporation, and so it gets caught by this particular act. All we're trying to do is what others have, and Holy Trinity is but one example; there are a number of other churches, Catholic and Anglican, that have been able to do what we're seeking to do, simply because they happen to be part of a corporation.

Mr. Gerry Martiniuk: Okay. From what you've said, if I may paraphrase, a corporation would not have this problem, would not be subject to a 40-year lease—

Mr. J. Paul Mills: That's correct.

Mr. Gerry Martiniuk: —due to the elimination of the mortmain act, and this act would seem to be somewhat of an anachronism—

Mr. J. Paul Mills: I agree.

Mr. Gerry Martiniuk: —in that it affects unincorporated charitable religious organizations; there are not that many that are unincorporated any more.

Mr. J. Paul Mills: Virtually every United Church congregation—I mean, there is a United Church of Canada Act. But that really only applies—it sets the ground rules for individual congregations. All of the property of the United Church is owned by the head office, but it's held by trustees of each congregation, with the provision that the congregation has the right to use the land and the buildings as long as they're part of the church, but if they ever fold up or decide to not be part of the United Church of Canada, the land reverts to the federal corporation.

Mr. Gerry Martiniuk: I thank you for that explanation. I don't have a problem with it. I do suggest, however, that the government do consider taking a look at this act, now that it seems to be highly prejudicial to certain religious organizations within Canada, whereas others do not have to abide by a 40-year-old rule. Perhaps we should be eliminating the total act rather than dealing with it piecemeal.

The Chair (Mr. Michael Prue): Questions?

Mr. Paul Miller: I just want to wish you luck. A lot of congregations are struggling throughout Ontario, and you're very fortunate to have a piece of property like that that can generate income for the church, because con-

gregations are dwindling and things are a struggle. I just wanted to wish you all the best. You've got my support. It appears that you are doing a lot of good work and you've got a lot of supporters in the community that are happy with your financial aid. I wish you all the best and God bless.

Mr. Martin Campbell: Thank you, Mr. Miller. We'll pass that on to our congregation.

The Chair (Mr. Michael Prue): Mr. Ruprecht.

Mr. Tony Ruprecht: I find it absolutely amazing, looking at the outreach mission that St. Andrew's has done in the past. I think it would be appropriate, Mr. Chair, that Reverend Hartley, who has been at this church now over 20 years, you say, and a former minister is here with us today—whose name, unfortunately, I didn't catch.

Mr. J. Paul Mills: Davidson.

Mr. Tony Ruprecht: Davidson, yes. The two of you and hopefully the present minister, who's on leave right now, will continue with this great tradition.

Looking at the various aspects of the outreach mission, how does it actually work between the central United Church, which is on St. Clair Avenue, and St. Andrew's? This commercial property must bring in a substantial amount of money for you to be able to do all these wonderful things. Can you tell this committee what the budget would be, roughly, to do all of this?

Mr. Martin Campbell: Perhaps I can speak to it, but Dr. Hartley can also add to this. In a given year, our ground rents are \$370,000, but we have an escalation clause. Every seven, eight, or 10 years it will be increased to better reflect market rents. So in a given year, we would receive approximately \$370,000. Of that money, depending on the budgets that we may have in any given year, we put some of that revenue towards the maintenance of our building. The church building itself is provided rent-free to quite a number of groups, from the Sunshine Centres for Seniors to Alcoholics Anonymous and others who meet without paying any rent to us. The location is superb for that. We're on the criss-cross of the subway lines.

Of the other \$170,000, we give direct grants to a number of organizations in our community, and some of them are listed there. Those grants can vary enormously. One year we gave \$25,000 to the Fresh Air Fund, but with another organization we might give \$2,000 or \$3,000 for a specific project—a refrigerator or some one-off donation to enhance a program.

We have a committee set up to examine the best way to use the money. They assess applicants and keep track of the money and so on. So it has been a long-standing policy of the church to use as much as possible of the rents for this larger community purpose.

Rev. John Hartley: As far as the United Church of Canada is concerned, through the Toronto south presbytery, of which we are a part, St. Andrew's has the blessing of the United Church to go forward with the ministry we engage in.

Mr. Tony Ruprecht: Well, please accept our thanks and congratulations for what you're doing. I hope that in the future there may be some kind of a co-operative arrangement between the government and some of these outreach programs. It would be great. Maybe you want to consider that. Thank you very much.

The Chair (Mr. Michael Prue): Any further questions?

Mr. Mario Sergio: I just have a quick question of clarification. I wasn't so sure about what you said with respect to the 1940 special act. Is it because of that particular act that you are here today, that it's working against the congregation?

1030

Mr. J. Paul Mills: The ROLA legislation?

Mr. Mario Sergio: The 1940 act, which the St. Paul's congregation of the United Church of Canada, in Orillia, indicates that particular 1940—

Mr. J. Paul Mills: I'm not sure what you're referring to.

Mr. Mario Sergio: It is in the material here, which indicates that the charity was exempted from mortmain. That is, from obtaining a mortmain licence to hold land, but not from the requirement that it must use or occupy the land for its charitable purposes.

Mr. J. Paul Mills: And which property is that referring to?

Mr. Mario Sergio: Orillia.

Mr. J. Paul Mills: Orillia?

Mr. Mario Sergio: Yes, which is part of the special act, the St. Paul's congregation of the United Church of Canada. I wonder if you fell within the same terms of that particular special law.

Mr. J. Paul Mills: I'm drawing a blank on that, I'm afraid.

Mr. Mario Sergio: It doesn't enter your application here.

Mr. J. Paul Mills: No.

Mr. Mario Sergio: It's in your material here.

Mr. J. Paul Mills: I think that was a specific situation in Orillia.

The Chair (Mr. Michael Prue): I believe there's a further comment on that.

Mr. Martin Campbell: That may be a special act that may refer to that specific congregation, but I'm guessing at this point. If it's a matter of some interest, perhaps we could get back to you with a letter or something that expands it further.

Mr. Mario Sergio: Not necessary, thank you.

The Chair (Mr. Michael Prue): Any other questions? Seeing none, are we ready to vote?

Mr. Tony Ruprecht: I know it's later on. I'd like to be the one who moves that the committee recommends that the fees be withdrawn.

The Chair (Mr. Michael Prue): Okay, when we get to that. There is a motion I think all members have before them that has been circulated—I'll read it for the record, if someone wishes to move it—"That the committee recommend that the fees, and the actual cost of printing

at all stages be remitted on Bill Pr3, An Act respecting St. Andrew's Congregation of The United Church of Canada at Toronto." So if there is a mover, when we get to that, I will recognize you, Mr. Ruprecht.

Mr. Tony Ruprecht: Thank you very much.

The Chair (Mr. Michael Prue): Shall section 1 carry? Carried.

Shall section 2 carry? Carried.

Shall section 3 carry? Carried.

Shall section 4 carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Mr. Ruprecht, you wish to make a motion.

Mr. Tony Ruprecht: I move that the committee recommend that the fees, and the actual cost of printing at all stages be remitted on Bill Pr3, An Act respecting St. Andrew's Congregation of The United Church of Canada at Toronto.

The Chair (Mr. Michael Prue): I've just been advised that this has to take place after the bill is carried. So we'll hold down debate on that, if any, and go on.

Shall the title carry? Carried.

Shall the bill carry? Carried.

Mr. Ruprecht has made a motion. Is there any discussion?

Mr. Mario Sergio: Recommend the bill.

The Chair (Mr. Michael Prue): Okay, I guess you're right. This is the first time I've done this. Shall I report the bill to the House, as amended?

Mr. Mario Sergio: Yes, you may.

The Chair (Mr. Michael Prue): Okay.

Then the motion by Mr. Ruprecht to waive the fees: Is there any discussion?

Mr. Mario Sergio: Just a question of staff. I have no problem with the motion. How would the committee be dealing with further or similar circumstances if we were to face the same situation in the future? Would this cause difficulties for us?

Ms. Susan Klein: This is a procedural question.

The Chair (Mr. Michael Prue): We'll have you an answer shortly here, I'm sure.

Mr. Gerry Martiniuk: On a number of occasions, while I've served on this committee, on an ad hoc basis, we decide whether it's fair in those particular circumstances.

Mr. Mario Sergio: On a one-to-one basis. Yes, I was coming to that. That was my question.

The Chair (Mr. Michael Prue): If I can just explain for the members of the committee and those present, it's my understanding that this is done on a case-by-case basis. It has been recommended in this case because it is a charitable organization.

Mr. Mario Sergio: That was my point. Thank you.

Mr. Mike Colle: How much money are we talking about?

The Chair (Mr. Michael Prue): I've been advised by the clerk that it's several hundred dollars. I don't have the exact figure, but I'm sure it's not going to bankrupt the government.

Mr. Tony Ruprecht: Shall I make the motion again?

The Chair (Mr. Michael Prue): No, I think the motion has been made.

Interjection: It's in our budget.

The Chair (Mr. Michael Prue): It's in the budget; okay.

Mr. Mike Colle: Are legal counsel waiving their fees too?

The Chair (Mr. Michael Prue): I'm not going to ask that question.

All right. All those in favour? Opposed? Carried.

I think that pretty much concludes the—

Mr. Martin Campbell: If I may, I just wanted to thank Ms. Klein for presenting such a clean and concise draft. I'm also very, very grateful to Mr. Zimmer for his support and guidance through this and to his assistant, Ms. Lauren Consky. They made what could have been a very esoteric exercise very clear, and I'm very grateful to them. Thank you.

The Chair (Mr. Michael Prue): Thank you to all.

Mr. Kim Craitor: I'd like to move that we have a collection on behalf of St. Andrew's while we're here.

Mr. J. Paul Miller: I have to go to a banking machine.

The Chair (Mr. Michael Prue): It is on the record that you've made a motion and I guess I have to deal with it. Is this a real motion or is this tongue-in-cheek?

Mr. Kim Craitor: In my heart, it's a motion.

The Chair (Mr. Michael Prue): Okay, so it's tongue-in-cheek. It is not a real motion for the committee to deal with.

All right, then. That being the conclusion of business, the only thing—are we meeting next week? Has that been set yet? No? Okay. Then we are done with this—

Mr. Tony Ruprecht: Before you wrap up, I'd like to add just one item. If we would pass Mr. Craitor's motion, this would be an historic motion. Never before has a member walked out of this committee room with money in their hands.

The Chair (Mr. Michael Prue): I think that's why we're not going to deal with it today.

At the time of the next meeting—I'm not sure whether it will be next Wednesday or at some subsequent date—I wonder if we might also have a subcommittee meeting of representatives from each of the parties to discuss the private members' bills that have been forwarded to our committee, and whether we're going to deal with them.

There being no other item of business before the committee, we stand adjourned.

The committee adjourned at 1037.

CONTENTS

Wednesday 26 March 2008

872440 Ontario Inc. Act, 2008 , Bill Pr4, <i>Mr. Dunlop</i>	T-3
Ms. Laurie Scott, MPP	
Ms. Rosemarie Bain	
Mr. Owen Thompson	
716056 Ontario Limited Act, 2008 , Bill Pr6, <i>Mr. Norm Miller</i>	T-4
Mr. Norm Miller, MPP	
Mr. Wayne Wolfe	
St. Andrew's United Church (Toronto) Act, 2008 , Bill Pr3, <i>Mr. Zimmer</i>	T-4
Mr. David Zimmer, MPP	
Mr. Martin Campbell	
Mr. J. Paul Mills	
Rev. John Hartley	

STANDING COMMITTEE ON REGULATIONS AND PRIVATE BILLS

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Mr. Bill Murdoch (Bruce–Grey–Owen Sound PC)

Mr. Michael Prue (Beaches–East York ND)

Mr. Tony Ruprecht (Davenport L)

Mr. Mario Sergio (York West / York-Ouest L)

Also taking part / Autres participants et participantes

Mr. Norm Miller (Parry Sound–Muskoka PC)

Ms. Laurie Scott (Haliburton–Kawartha Lakes–Brock PC)

Mr. David Zimmer (Willowdale L)

Clerk / Greffière

Ms. Sylwia Przezdziecki

Staff / Personnel

Ms. Susan Klein, legislative counsel

200
15
72



T-3

T-3

ISSN 1180-4319

Legislative Assembly of Ontario

First Session, 39th Parliament

Official Report of Debates (Hansard)

Wednesday 9 April 2008

Standing committee on
regulations and private bills

Chair: Michael Prue
Clerk: Sylwia Przezdziecki

Assemblée législative de l'Ontario

Première session, 39^e législature

Journal des débats (Hansard)

Mercredi 9 avril 2008

Comité permanent des
règlements et des projets
de loi d'intérêt privé



Président : Michael Prue
Greffière : Sylwia Przezdziecki

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Telephone 416-325-7400; fax 416-325-7430
Published by the Legislative Assembly of Ontario



Service du Journal des débats et d'interprétation
Salle 500, aile ouest, Édifice du Parlement
111, rue Wellesley ouest, Queen's Park
Toronto ON M7A 1A2
Téléphone, 416-325-7400; télécopieur, 416-325-7430
Publié par l'Assemblée législative de l'Ontario

LEGISLATIVE ASSEMBLY OF ONTARIO

**STANDING COMMITTEE
ON REGULATIONS
AND PRIVATE BILLS**

Wednesday 9 April 2008

The committee met at 1003 in committee room 1.

**GRAND AVENUE HOLDINGS LTD. ACT,
2008**

Consideration of Bill Pr2, An Act to revive Grand Avenue Holdings Ltd.

The Chair (Mr. Michael Prue): I'd like to call the meeting to order.

The first item of business is Bill Pr2, An Act to revive Grand Avenue Holdings Ltd. The sponsor here is Mr. Ruprecht. I take it the applicant is with you as well. Could she please identify herself for the purposes of Hansard?

Ms. Cathryn Sawicki: Sure. Cathryn Sawicki, legal counsel.

Mr. Tony Ruprecht: Cathryn Sawicki works for Green and Spiegel, but in this case she's acting on behalf of Grand Avenue Holdings. I'm delighted to introduce her.

Let me just make a few comments. Grand Avenue is being sued as a result of an environmental issue on land they once owned. In order to properly defend the action, Grand has been resurrected. It would therefore be unfair to the plaintiff in the action and the former shareholders of Grand Avenue Holdings if this company was not resurrected.

I'll ask you, Chair, and the members to direct any further questions to Ms. Sawicki.

The Chair (Mr. Michael Prue): To the applicant: Any statements you may have on this, or did Mr. Ruprecht cover it all?

Ms. Cathryn Sawicki: I think he covered it all.

The Chair (Mr. Michael Prue): Are there any interested parties present who wish to make a deputation on this? Seeing no interested parties, any comments from the parliamentary assistant?

Mr. Bas Balkissoon: The government has no concerns with this application and is happy to support it.

The Chair (Mr. Michael Prue): Are there any questions from committee members to the applicant or the parliamentary assistant? Seeing none, are the members ready to vote? It looks that way. The following motions have to be voted on:

Shall section 1 carry? Carried.

Shall section 2 carry? Carried.

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

**COMITÉ PERMANENT DES
RÈGLEMENTS ET DES PROJETS DE LOI
D'INTÉRÊT PRIVÉ**

Mercredi 9 avril 2008

Shall section 3, the short title, carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? Carried.

Thank you very much. That was one of the fastest ones in history.

Mr. Tony Ruprecht: Ms. Sawicki came here and didn't say a word.

Mr. Bas Balkissoon: When you're effective like that—

Mr. Tony Ruprecht: Wait till the next one.

MADRESA ASHRAFUL ULOOM ACT, 2008

Consideration of Bill Pr5, An Act respecting Madresa Ashraful Uloom.

The Chair (Mr. Michael Prue): The next item is Bill Pr5, An Act respecting Madresa Ashraful Uloom. Do I take it, Mr. Ruprecht, that you are putting forward the bill?

Mr. Tony Ruprecht: Yes. I have been asked by Dr. Qaadri to say just a few words and make some introductory remarks. As you know, Dr. Qaadri represents Etobicoke North. I'd like to welcome Mr. Phillip Sanford and Mr. David Fleet, with whom all of us are familiar, as representing Madresa Ashraful Uloom. These two gentlemen will be presenting today on behalf of Bill Pr5, An Act respecting Madresa Ashraful Uloom, 2008. Welcome to the committee. I just want to make one more comment that the madresa is located in Dr. Qaadri's riding and I want you to know that Dr. Qaadri supports this bill.

The Chair (Mr. Michael Prue): I understand from discussion that the applicants have a request to make at this point.

Mr. Phillip Sanford: Yes, sir. My name is Phillip Sanford. Unlike my friend, Mr. Fleet, I'm not known to the committee. It is apparent, as a result of discussions which have occurred over the last few days, that the bill would be advantaged if there were some additional discussions with the city of Toronto. In an ideal world, one would hope to have a city representative here.

At this point, I think it would be helpful if the committee would grant us an indulgence and perhaps put the matter over to another meeting, so long as that meeting is not too many weeks away. We will diligently

work with the city as best we can and see if we can answer some of the questions that have been raised.

The Chair (Mr. Michael Prue): Any questions of the deputant?

Mr. Gerry Martiniuk: I move that we adjourn this matter to our next meeting.

The Chair (Mr. Michael Prue): Any discussion on the motion?

Mr. Bas Balkissoon: The government's position is, we would support that motion to adjourn this particular hearing to the next meeting.

The Chair (Mr. Michael Prue): Any other discussion on the motion? No other discussion. All those in favour of adjourning this and putting it on the next meeting agenda? Carried.

Thank you very much. We'll see you at the next meeting.

1010

CORPORATE REVIVAL PRIVATE ACTS

Mr. Michael Prue: The third and only other item on the agenda was a request that was made the last time for some discussion. A memorandum has been prepared by Susan Klein, legislative counsel, concerning corporate revival private acts. I believe all members have that. Ms. Klein, anything you'd like to start us off on?

Ms. Susan Klein: I guess the basic principle of private acts is that if the desired legal effect can be obtained under general legislation, then it should be obtained under general legislation. You'll only see a private bill application if what is wanted can't be got under the general law.

There are a number of situations in which a dissolved corporation can be revived under the general law. I've listed subsection 241(5) of the Business Corporations Act. It sets out a number of kinds of dissolutions that can be revived under the Business Corporations Act: for default with a number of tax statutes, for failing to file under the Corporations Information Act, for failure to pay a fee under the Business Corporations Act. I think these kinds of dissolutions happen with some frequency, and they're revived under the Business Corporations Act. They don't require private legislation; they don't come to this committee.

What can't be revived administratively under the Business Corporations Act are dissolutions not described in subsection 241(5). One is expressly disallowed, and that's dissolutions from more than 20 years ago. Corporations that are voluntarily dissolved can't be revived under the legislation. There's a list of dissolutions for sufficient cause. The most common types of these that we see in the committee are dissolutions for failure to comply with subsection 115(2) of the Business Corporations Act, which requires you to have a certain number of directors, or dissolution under subsection 118(3) of the Business Corporations Act, which requires you to have a certain number of resident Canadian

directors. In all those cases you see private act applications.

There have been amendments in the last 20 years or so to the corporate legislation that has reduced the number of corporate revival private bill applications that the committee has seen. Until 1994, in both the Business Corporations Act and the Corporations Act, only dissolutions from the previous five years could be revived administratively under the legislation. So this committee was seeing a large number of private bill applications for any corporation dissolved for any reason more than five years ago. In 1994, both the Business Corporations Act and Corporations Act were amended to remove that five-year limitation. There's been a pretty significant drop in the number of private bill applications that have come before this committee since then as a result of that.

I don't know if you want to do anything further, to make any kind of recommendation to the Ministry of Government and Consumer Services to make further amendments to their legislation to reduce the number of private bill corporate revival applications that you see. I can't speak for the ministry to know what their policy or operational concerns would be, but certainly, just from the point of view of looking at the legislation and seeing what would reduce the private-bill necessity, you could ask for something like allowing voluntary dissolutions to be revived administratively under the legislation or the dissolutions under sections 115 and 118 of the Business Corporations Act. We haven't seen any dissolutions under the Corporations Act since 1994, since that five-year limitation was taken away.

So there seem to be basically three areas of private bills that are still coming before this committee: the sections 115 and 118 dissolutions and voluntary dissolutions. There has been a large drop. Most years we see one or two at most; there have been a few years with more. This year seems to be a banner year. We've got a lot coming forward, and I think that's in part because of the election in 2007. You've just got a backlog of some bills.

That's my presentation. I'll be happy to answer questions.

The Chair (Mr. Michael Prue): Any questions?

Mr. Gerry Martiniuk: It seems to me that these matters have no business before a committee of this Legislature. Why are these people being put to the cost of a private bill—the printing costs. The whole thing is obviously ridiculous. It's an administrative matter that should be dealt with by ministerial order. This committee shouldn't be bothered with this very individual matter. It's not a matter of public policy. It's an individual problem. It's administrative. It's not legislative, in my opinion.

I suggest to the committee that I think we can do a service to the Legislature and the government by recommending that these matters, relating to the revival of corporations, be dealt with by ministerial order rather than a private act.

The Chair (Mr. Michael Prue): Just so I have it clear, you're talking specifically about number 2 on page 2, where it talks about corporations that were voluntarily dissolved being able to come back? That's the only one?

Mr. Gerry Martiniuk: No, any of the dissolutions.

The Chair (Mr. Michael Prue): Okay.

Mr. Mike Colle: I think MPP Martiniuk has an interesting point and a valid point. I just wonder what the cost of the alternatives are. If they would have to go through the courts or through other processes, it might even be more expensive and more time-consuming for the applicant. Maybe even going through the bureaucracy of a minister—it probably would be the Minister of Finance, which has got such a huge mandate. Like you, I'm just thinking about whether this is the least of all evils. I was on this committee before, and it seemed that most cases were dealt with pretty quickly and fairly by the committee without too much pomp and ceremony, so it might be a good outlet for the applicants.

This is quite a niche area, so I don't claim to be an expert. I'm just following your line of thinking on how to expedite this or make it easier, but I also have those thoughts that maybe this is something that does work reasonably well, and if you push it all off onto the bureaucracy, it might have even less accountability or there might be more time delay involved in it. That's all I'd like everyone to consider.

The Chair (Mr. Michael Prue): I think some of the points you're making are well taken.

We have the expert here. Allen Doppelt is here. He was the person who wrote all of this in the first place, so he can explain to us why it was written the way it was, and then we can have some more questions.

Mr. Doppelt, some of us are finding this a little arcane and wondering why the whole process of reviving the corporation has to come before committee and could not simply be done by ministerial order.

Mr. Allen Doppelt: In fact, most corporations that are dissolved don't come before this committee; they are allowed to revive administratively. The vast majority of corporations—and I have the statistics—are dissolved for failure to comply with the tax statutes. For example, in the last three fiscal years, over 137,000 such corporations were dissolved. They can revive administratively under the Business Corporations Act by complying with the tax statutes and getting the consent of the Ministry of Finance.

The second major reason corporations are dissolved is for failure to comply with corporate information filing requirements, and in the last three fiscal years, there were about 3,000 of those.

The remaining category, where there is no administrative revival under the act, is where corporations are dissolved for sufficient cause. The two primary reasons are the failure to have any directors and the failure to have the minimum number of resident Canadian directors.

1020

Sometimes they're also cancelled for other reasons, where the articles are invalid. That doesn't happen all that often.

Our experience has been that the only way to get compliance is to dissolve for cause in these cases. The actual numbers that are dissolved for those reasons—for failure to have any directors or failure to have the number of resident Canadian directors—are very small. We've also taken some measures to reduce that number, because it used to be the case where we'd simply look at the last information filing, and if it didn't show that there were any directors, we went ahead and started the dissolution process.

I should mention: We don't just go ahead and dissolve quickly. A number of notices are sent out, and in these cases there is a right to a hearing. In fact, I held two such hearings myself within the last year. In one case, it was an administrative revival, where the corporation is dissolved for failure to comply with the tax statutes, and by mistake they were allowed to revive without complying. The other case was one where there were no directors, but a hearing was requested. It was rather extraordinary because it doesn't happen very often.

As I mentioned, the numbers are quite small. Historically, the vast majority of such corporations usually are insolvent if they don't have any directors. We took steps to deal with the one situation, where the latest information notice didn't show any directors. We then would go back and see if directors have previously been shown on the public record and not ceased to be directors. If we were going to dissolve in that case, it would be for failure to file up-to-date information, in which case there would be an administrative revival.

That has significantly reduced the number of such dissolutions that require a private bill to revive.

Mr. Gerry Martiniuk: That's all very nice and interesting. You've reduced the number; why haven't you eliminated the number that come before this committee, and let the minister make the decision? That's what we're asking.

I'm concerned—for instance, in this case, that there was a lawsuit going on. There was a voluntary dissolution, I take it, and now they're reviving it in order to defend the lawsuit, which is reasonable. This Legislature, on occasion, doesn't sit for a considerable length of time, so there are considerable delays.

Can you give me a good reason why any of these matters that are presently not permitted to be revived administratively by the minister should be before this committee?

Mr. Allen Doppelt: It's something that we could certainly review and consider. It has never been considered in the past in such extreme cases.

I should mention, in cases of voluntary dissolution, which is the one you're talking about—in fact, in many cases we are able to deal with it administratively. The most common situation is that a corporation voluntarily dissolves and doesn't realize that it still has property that

it hasn't distributed to its shareholders. In that case, we can administratively cancel the certificate of dissolution and there's no need for a private bill.

In this case, there may well not have been grounds. But as I said, in terms of amending the act so that all dissolved corporations can administratively revive, it's something that I'd have to take back to my ministry. Certainly we can give it very serious consideration.

Mr. Gerry Martiniuk: That was the intent of the original inquiry, I believe.

Mr. Allen Doppelt: Yes.

The Chair (Mr. Michael Prue): Further questions?

Mr. Tony Ruprecht: I'm surprised that this issue hadn't been raised before, because I remember Mr. Martiniuk making the very same point under the Red Tape Commission, I think it was. I raised it a couple of times before this very committee; this is now some years ago. So this isn't new; this is old.

A case in point today: Ms. Sawicki came here, didn't say a word, or even if she would've, she would've said two words and would've gone home.

However we can work this out, even if these corporations have to be revived or not revived, whatever the case may be, the point being, if we can't do them all, then why don't we use some of them and say to the people who are supposed to come here, "You don't necessarily have to come; we can resolve this without your attendance"? At least we will spare them the expense, and perhaps we'll spare ourselves the discussion in this matter.

But my final recommendation is simply this: If the Red Tape Commission made some recommendations, then why not look at some of these recommendations and see where we're at today?

Mr. Mike Colle: No matter how we try, those of us who have been in government—the city, Metro—know that there's no perfect system of shutting down every possible scenario. I just think that it's worth looking at whether there is a reasonable way. But I don't see any harm with this being done in a public forum. The rationale given here, the fact that most of them are dealt with by the thousands already—and you're never going to have a fool-proof system. I've never seen one in any area, no matter how high. The lawyers and the people involved with drafting legislation—there's always the human factor. I think that's what we're dealing with here. I think it seems to be companies that have gone defunct. The board of directors are gone, they've made a mistake, they didn't file etc.

I'm not that adamant about finding a perfect shutdown here. If the committee has to deal with them, as I've said, it's at least a very expeditious way of dealing with them. It's not too onerous, considering what people go through in the courts and other processes etc. There's at least a semblance of fairness here and reasonableness, which I don't find too onerous. But if there is a perfect way of doing it, go ahead. I'm not against it if you're going to try it.

Mr. Yasir Naqvi: In order for corporations to be revived through a private act, there has to be a compelling public policy rationale. I'm just looking at the circumstances under which corporations can be revived through a private act on page 2 of the memorandum presented by Ms. Klein. Some of the circumstances seem to be quite egregious; for example, offences under the Criminal Code or the Provincial Offences Act, and "conduct that is oppressive or unfairly prejudicial." So I'm assuming, and I'm just purely speculating, that those were the public policy reasons why this system was put in place: so that members of the Legislature can keenly look at these revival requests to ensure that these egregious public policy rationales are met.

In practice, if that's happening or not is of question. In my very limited experience at the Legislature, it seems like these become quite a routine sort of approval. Perhaps we might just have to consider going back to why this is being done. If this has become routine, then an administrative process is the way and only very few circumstances are kept at this particular process, which requires more in-depth analysis by the members to ensure that public policy reasons are fully met with.

Mr. Mike Colle: I think a good example here was the previous applicant. My understanding of it is that, because of coming before this committee, the applicant found out that there was some conflict between the City of Toronto Act and the Municipal Act. As a result of coming to this committee, we've indicated to the applicant that they have to have discussions with the city of Toronto, which I think is good. There is this ability to direct the applicants in a way that all affected parties, in an informal way, have input. It's not the perfect system, but at least it's an open public forum—what this place is all about.

Mr. Bas Balkissoon: If we look at the first application today—and we had similar ones at the last meeting—the ministry staff are saying that they're willing to take a look at those and probably look at the history of, say, a year or two ago, and how many of these have come here where the hearing lasted two minutes or less, and try to look at a way of dealing with those internally. I think the staff is offering that they're willing to do that and bring it to the minister's attention. Maybe we should take up that particular offer and proceed with those only at this time. 1030

The Chair (Mr. Michael Prue): We don't have any motion before us. Is somebody willing to put a motion forward of exactly what you're requesting?

Mr. Gerry Martiniuk: Very simply, I'd move that this committee recommends that the minister review the present state of notices of revival coming before this committee to determine whether or not they should be dealt with administratively.

This is a recommendation of this committee. It's not binding, but at least it's on record. I think it's here because of historical reasons, and they just haven't gotten around to getting them all. Every year they do a little bit, which is typical of government. We do a little bit and a

little bit, but we never take that full step and do away with all of them. Let's see what the minister has to say. I'd be interested.

Mr. Tony Ruprecht: I second the motion.

The Chair (Mr. Michael Prue): We have a seconder. Discussion? Mr. Tabuns?

Mr. Peter Tabuns: I have no comment. I think it's a reasonable suggestion.

The Chair (Mr. Michael Prue): We have a motion moved and seconded. Any discussion?

Mr. Allen Doppelt: Can I just add one additional comment? One area where there is a concern about doing revival administratively is where a corporation delays for a very long time in order to revive. Last year, we had an amendment to the Business Corporations Act that imposed a 20-year time limit. Many years ago, it was a five-year time limit. The problem is, if a corporation is dissolved for that lengthy period of time, it does create problems. It creates problems administratively for us, and it creates problems for the Office of the Public Guardian and Trustee if they're in any way going to deal with the property, because it becomes escheated to the crown upon dissolution. That's something we'd have to consider, that the only limitation might be, if a very lengthy period of time has elapsed since dissolution, whether administrative revival is appropriate.

Mr. Gerry Martiniuk: That's exactly what the motion says, that you're going to look at it. It's not binding that you have to do something. The minister is going to look at it. I assume he or she will tell us their decision somewhere along the line.

Mr. Allen Doppelt: Okay. I just wanted to draw to the committee's attention that that's one area that has been a troublesome area, where there's been a very lengthy lapse between dissolution and an application for revival.

Mr. Gerry Martiniuk: Yes. Excuse me, I don't want to—but you went from five years to 20 years?

Mr. Allen Doppelt: Yes.

Mr. Gerry Martiniuk: You made that hop. What's the difference between going to five years to infinity?

Mr. Allen Doppelt: Actually, there was no time limit for a number of years and then we were pressured by the public guardian and trustee's office to put a time limit. Every other province has a time limit. In fact, Alberta recently imposed a five-year time limit, but they have many fewer dissolutions than we do.

In fact, the reason we eliminated the five-year period was a concern that in the mid-1990s we dissolved a lot of

corporations for failing to do information filings. There was a concern that, after five years, there might be dozens of bills before this committee. So that's why we eliminated the time limit at that time, but then there were concerns about what happens if corporations are dissolved for a very lengthy period of time. That's one of the factors we'll take into consideration in doing a review.

The Chair (Mr. Michael Prue): The parliamentary assistant on the motion?

Mr. Bas Balkissoon: I'll support the motion, but staff may want to consider our request that the minister take a look, and in our request also that the minister look at, if there is denial, there is a formal appeal process of some type—and it could be anything.

Mr. Allen Doppelt: If I could just comment on that, the way our administrative process works, the only reason why we would refuse to allow administrative revival is a case where the reason for which the corporation was dissolved in the first place hasn't been cured. In other words, if a corporation is dissolved for failure to comply with the tax statutes and they still haven't complied, then obviously they're not entitled to revival; or if they haven't done their information filings for many years, then we're not going to allow them to revive and continue to be in breach of the Corporations Information Act. But the process is that if you do comply, then administratively one is allowed to revive.

The Chair (Mr. Michael Prue): The parliamentary assistant, I believe, has made an amendment to the main motion. That's what you were attempting to do?

Mr. Bas Balkissoon: That in his review of the ones that are coming here, if there is an administrative denial, there also be an appeal process for the applicant.

Mr. Mike Colle: And then they'd come here again.

Mr. Gerry Martiniuk: They could be back here.

Mr. Bas Balkissoon: Yes, and that's fair, because the minister is one person and this is a committee.

The Chair (Mr. Michael Prue): All right. Any discussion on the amendment? Seeing no discussion, all those in favour of the amendment? All those opposed? None. That's carried.

The motion, as amended: All those in favour? That's carried.

Any other items of business that anyone has before the committee? There's nothing else scheduled. Seeing none, the committee is adjourned.

The committee adjourned at 1035.

CONTENTS

Wednesday 9 April 2008

Grand Avenue Holdings Ltd. Act, 2008 , Bill Pr2, <i>Mr. Ruprecht</i>	T-9
Mr. Tony Ruprecht, MPP	
Ms. Kathryn Sawicki	
Madresa Ashraful Uloom Act, 2008 , Bill Pr5, <i>Mr. Qaadri</i>	T-9
Mr. Tony Ruprecht, MPP	
Mr. Phillip Sanford	
Corporate Revival Private Acts	T-10
Ms. Susan Klein, legislative counsel	
Mr. Allen Doppelt, senior counsel, Ministry of Government and Consumer Services	

STANDING COMMITTEE ON REGULATIONS AND PRIVATE BILLS

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T-4

T-4

ISSN 1180-4319

**Legislative Assembly
of Ontario**

First Session, 39th Parliament

**Official Report
of Debates
(Hansard)**

Wednesday 23 April 2008

**Standing Committee on
Regulations and Private Bills**

Chair: Michael Prue
Clerk: Sylwia Przezdziecki

**Assemblée législative
de l'Ontario**

Première session, 39^e législature

**Journal
des débats
(Hansard)**

Mercredi 23 avril 2008

**Comité permanent des
règlements et des projets
de loi d'intérêt privé**

Président : Michael Prue
Greffière : Sylwia Przezdziecki

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Toronto ON M7A 1A2
Telephone 416-325-7400; fax 416-325-7430
Published by the Legislative Assembly of Ontario



Service du Journal des débats et d'interprétation
Salle 500, aile ouest, Édifice du Parlement
111, rue Wellesley ouest, Queen's Park
Toronto ON M7A 1A2
Téléphone, 416-325-7400; télécopieur, 416-325-7430
Publié par l'Assemblée législative de l'Ontario

LEGISLATIVE ASSEMBLY OF ONTARIO

**STANDING COMMITTEE
ON REGULATIONS
AND PRIVATE BILLS**

Wednesday 23 April 2008

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

**COMITÉ PERMANENT DES
RÈGLEMENTS ET DES PROJETS DE LOI
D'INTÉRÊT PRIVÉ**

Mercredi 23 avril 2008

The committee met at 1007 in room 1.

827291 ONTARIO LTD. ACT, 2008

Consideration of Bill Pr7, An Act to revive 827291 Ontario Ltd.

The Chair (Mr. Michael Prue): I call the meeting to order. We now have quorum. I would remind the members that if we don't have quorum by 10 after, then the meeting is cancelled. People come all the way from Ottawa. Please endeavour not to come in at nine minutes after 10.

I'd like to call Bill Pr7, An Act to revive 827291 Ontario Ltd. I would call Mr. Naqvi as the sponsor and the applicants to come forward. Mr. Naqvi, the floor is yours.

Mr. Yasir Naqvi: I just wanted to take this opportunity to introduce the applicants to the committee. To my far left is Mr. Patrick McCarron, the director of said company, and to my immediate left is Mr. Shannon Martin, the legal counsel.

I pass the floor to Mr. Martin, to make his submission to the committee.

The Chair (Mr. Michael Prue): The first is yours. You have the first right to make any statements you want. If not, then pass it.

Mr. Yasir Naqvi: The matter is simple. It's to revive this particular numbered company. I believe it meets all the requirements as per the legislation for revival in front of this committee. If there are any specific questions from the committee members, I will refer them to Mr. Martin, the legal counsel.

The Chair (Mr. Michael Prue): Mr. Martin, the floor is yours.

Mr. Shannon Martin: I won't go into any great detail unless you want me to do so, but this is one Ontario corporation that was dissolved by articles of dissolution. It's called a voluntary dissolution. If the committee has handled these matters before, they would realize that the Ontario Business Corporations Act provides for a revival of a corporation if it has been dissolved involuntarily, that is, usually for failure to file tax returns or corporate returns. But when it's dissolved voluntarily, there's no provision for revival in the act, and therefore, the only way to revive it is by a special act of the Legislature.

The circumstances here were that the party, Mr. McCarron, was the sole director, officer and shareholder of this corporation, which was created to run an interior design business. At some time after it was done so, a house where the office was located was put in the name of the corporation. A few years later, in 2002, when the accountant and my client decided they would no longer need the corporation, they decided that they would then dissolve the corporation and have the business run as a sole proprietorship. Nobody seemed to appreciate at that time that it held a piece of property. They went ahead with the dissolution, wound up the company and obtained articles of dissolution. Four or five years later, when the property was put up for sale and an agreement was signed, the purchaser's lawyer searched the title, found the name registered in the name of the corporation, checked and found that it had been dissolved, notified me as the solicitor for the vendor and said, "Here's your problem." We agreed that if we proceeded with an application for a revival, they would continue with the transaction, fortunately for us. That is why we're here today.

The Chair (Mr. Michael Prue): Okay. Are there any interested parties? Seeing none, any comments from the parliamentary assistant?

Mr. Mario Sergio: There is no concern or question from either of the ministries, therefore we support the application. We have seen similar applications in the past and we have others coming, so it's kind of a routine situation. We have no problem with it.

The Chair (Mr. Michael Prue): Are there any questions from committee members to the applicant, parliamentary assistant or anyone else?

Mr. Paul Miller: It appears once again—I've brought this up in front of this committee before—that there is a breakdown in communication between the solicitors and the government. This system has to be more streamlined so that we don't put people through these ordeals. I feel that people really didn't know some of the situations and are not informed properly; they don't receive the proper notification and there's no follow-through. I've brought this up before, and everyone in this committee agrees, that we have to streamline this situation because it's very unfortunate that you have to come all that way for something that is, I think, relatively easy to fix.

Mr. Mario Sergio: Mr. Chairman, for the interest of the committee, I believe that at our last meeting we had to write that staff provide a report on the same issue.

The Chair (Mr. Michael Prue): Yes, and later in the morning I will—I have signed the letter to the minister indicating the committee's wish.

Mr. Mario Sergio: All right. Thank you.

The Chair (Mr. Michael Prue): Any other questions or comments? Seeing none, are we ready to vote? Okay.

Shall section 1 carry? Carried.

Shall section 2 carry? Carried.

Shall section 3 carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? Carried.

Thank you very much.

Mr. Yasir Naqvi: Thank you, Mr. Chair.

The Chair (Mr. Michael Prue): A long trip, but relatively short work.

719226 ONTARIO LIMITED ACT, 2008

Consideration of Bill Pr8, An Act to revive 719226 Ontario Limited.

The Chair (Mr. Michael Prue): I now call Bill Pr8, An Act to revive 719226 Ontario Limited. I invite the sponsor, Ms. Jaczek, to come forward. Ms. Jaczek, if you could indicate the applicant.

Ms. Helena Jaczek: Thank you so much, Mr. Chair. I'm here sponsoring Bill Pr8, An Act to revive 719226 Ontario Limited, and with me are Andrew Van Gastel, director, and John G. Alousis, legal counsel. Andrew Van Gastel has applied for special legislation to revive 719226 Ontario Limited. The applicant represents that he was the sole officer and director of the corporation when it was dissolved. The corporation was dissolved under the Business Corporations Act on March 3, 2005, for failure to comply with section 115 of that act.

I will now turn the presentation over to Mr. Alousis, legal counsel.

The Chair (Mr. Michael Prue): The floor is yours, sir.

Mr. John Alousis: It appears that the dissolution was caused inadvertently by a failure to file a necessary notice. The notice has since been filed.

I understand that the application has been circulated to the necessary departments and ministries, and I understand that there are no objections.

We require the revival of the company to deal with property held by the company.

That sums up the facts.

The Chair (Mr. Michael Prue): Are there any interested parties to this? Seeing none, the parliamentary assistant—any comments?

Mr. Mario Sergio: This is very similar to the previous application. To be able to come up with some solution to deal with matters such as this, we'll have to deal with it at the committee level. We have no concerns

with the application. We're not opposed. I commend the applicant and the sponsor of the bill, and I will approve the application.

The Chair (Mr. Michael Prue): Are there questions from committee members to the applicant or parliamentary assistant?

Mr. Paul Miller: Once again, it looks like repeat and repeat. But with this one, I noticed that the former solicitor retired. Maybe we should contact the Law Society of Upper Canada—when lawyers retire, maybe they should pass on their files to the new lawyer so that everybody knows what's going on. I'm going to pick on the law society today for a lack of communication. Maybe that's done on purpose; I don't know.

Mr. John Alousis: You're welcome to complain all you want. I don't know whether those files were ever passed on to a junior.

Mr. Paul Miller: Exactly. So when you guys retire, please pass on your files.

Mr. Tony Ruprecht: Just a quick question: Are you from Mississauga or is this from Oakville?

Mr. John Alousis: From the Newmarket area—Kettleby.

Mr. Tony Ruprecht: The other party came from Ottawa, right? This party came from Newmarket. Let's hope we'll move in the right direction quickly. Thanks.

The Chair (Mr. Michael Prue): Any other questions or comments? Are we ready to vote?

Mr. Bas Balkissoon: Yes.

The Chair (Mr. Michael Prue): I needed somebody to say something. Okay.

Shall section 1, as amended, carry? Carried.

Shall section 2 carry? Carried.

Shall section 3 carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? Agreed.

Just out of edification, I did say "as amended" to section 1, but there were no amendments.

Thank you very much.

Mr. John Alousis: Thank you.

MADRESA ASHRAFUL ULOOM ACT, 2008

Consideration of Bill Pr5, An Act respecting Madresa Ashraful Uloom.

The Chair (Mr. Michael Prue): The last bill before the committee today is Bill Pr5, An Act respecting Madresa Ashraful Uloom. The sponsor of this bill is Mr. Qaadri. The floor is yours, sir. Please introduce the applicants.

Mr. Shafiq Qaadri: Thank you, Mr. Chair, and to my honourable colleagues of all three parties. I am joined here by, on my extreme left, Mr. Panchbhaya; Phillip Sanford, legal counsel; and to my right, Mr. David Fleet, who, by the way, for the edification of the committee, was not only a former MPP at this Legislature but also a former Chair of this particular committee.

The bill is An Act respecting Madresa Ashraful Uloom. From the preamble itself, the board of directors of this institution have applied for special legislation to extend the deadline for making an application under a particular subsection of the Assessment Act in respect of the classification of certain property for the taxation years 1994 and 2000.

As you'll know, Mr. Chair, there are certain provisions within the tax codes of all governments that offer relief to religious institutions. I think what we're attempting to do is to avail ourselves of those benefits. Of course, I will defer to wiser heads to explain the intricacies.

1020

The Chair (Mr. Michael Prue): The applicant?

Mr. Phillip Sanford: Yes, sir. If I might trouble the committee for a few minutes, let me just give you a little bit of the background—and I should say that I'm comparatively new to this long-running file, but that's two and a half years new. This has been working its way through the process very badly for a long time. The people who constituted the Madresa purchased the property late in 1993 with the intention of establishing a mosque and a school. They began to use the property almost right away as a mosque; the school took a little longer to set up. By 1995, they were operating both the mosque and the school.

I think it would be fair to say that the group is unsophisticated in terms of property tax issues. That really isn't unique to them. I think that most of my clients, who are generally commercial and industrial operators, would fall into the same category as—Mr. Balkissoon, in particular, knows from experiences that he and I had two decades ago that in some ways, our system is not very user-friendly. What this group ran into is one of the true oddities in the system, which is that if the assessors don't return their assessment of a property as exempt, then the only means—subject to a little caveat that I'm going to give you—whereby a taxpayer may obtain an exemption is by bringing an application before a judge. Generally, assessment issues can be resolved by appealing to the Assessment Review Board and/or by making applications to the city under the Municipal Act.

Exemptions are different. That is not widely understood by taxpayers; there are probably very few taxpayers who understand that. It's not widely understood by lawyers. I heard one of the members saying something about our profession this morning. We have many failings, individually and collectively, and one of them is that this is an obscure little practice area which is not widely understood and, frankly, people are unwise to dabble in.

This group retained, ultimately, several solicitors. Those solicitors initiated applications to the municipality, which I wrongly described as the borough of Etobicoke—at the time, it was the city of Etobicoke. Applications were initiated under what used to be section 442 of the Municipal Act. This is one of the complex little oddities in the legislation. Municipalities can treat a property as exempt for a portion of the year in which it

becomes exempt. They have that limited jurisdiction, but only in that year can they treat it as exempt. Otherwise, it remains in the hands of the provincial assessors, and if there's a dispute, it goes into the courts.

I'm sure that some of you are thinking that this is just gobbledegook. But in fact, it's the heart and soul of the problem. An application was initiated for a property that should have been substantially or wholly exempt from an early point. The application was initiated by the solicitor. The city of Etobicoke staff did what they always do, which is, they asked the provincial assessors—in those days, of course, the Ministry of Finance—for comments. The matter bounced back and forth between the two, information was requested, site visits were undertaken, and in the way that happens all too often, more applications were made in subsequent years. The years went by. Some recommendations for partial exemptions were made by the assessors. The Madresa was unsatisfied with the extent of the exemptions, and the matter went on and on.

In 2000, unfortunately, it all crashed to the ground, and I'll explain why. In the letter that I gave the committee on Monday, I explained in some detail. In 2000, the solicitors became involved. These are the solicitors for MPAC, and they quite fairly said, looking at what had gone on and looking at all the applications, which then had backed up before the Assessment Review Board—in plain language, "Wait a minute; there's no jurisdiction in the Assessment Review Board to deal with these matters. You should have brought an application before a judge." After more back and forth, ultimately an application was brought—even that wasn't done as quickly as it should have been done—and an exemption was granted, starting in 2001, on consent. The situation in the earlier years was the same: There simply was a fundamental mistake in the way in which the representatives of the Madresa addressed the matter.

The only way, if at all, that those old tax years can be addressed is if the Legislature permits a reopening of the limitation period. The Madresa is not asking that the applicable law be changed retroactively; it is asking for a very extraordinary relief, which is to in effect turn the clock back and permit it to bring an application before a judge for the years 1994 through 2000. It is in a dire situation. The property is in the process of a tax sale and the city is exercising its rights.

I'm not sitting here criticizing the city. I said to somebody this morning—actually, I said to one of the city representatives who is here, "This is a situation, a bit of a train wreck, where I don't actually see any villains." Everybody was trying to do the right thing. The practice that the city of Etobicoke adopted of dealing with these Municipal Act applications, the section 442s, was clearly beyond its jurisdiction. I can tell you, and my friend Mr. Fleet can tell you—because we both practise in this area exclusively—that Etobicoke did this not just for this particular applicant but it dealt with successive-year exemptions on a routine basis. That was just the way it was done. Undoubtedly, people appreciated that Etobi-

coke was exceeding its jurisdiction, but it's ever so much simpler if you can deal with exemption matters by way of an application to the municipality.

Etobicoke was, in my view, trying to convenience its taxpayers. It certainly was pushing its own jurisdiction beyond the boundaries, but with every good intention. Normally, everything worked out just fine. The applications were made, recommendations were made by the assessors and everything was dealt with. The problem with pushing the jurisdiction in the way that Etobicoke did is that in a situation like this, where the years go by and the recommendations that are being made by the assessors don't correspond with the taxpayer's hopes and expectations, at that point, the taxpayer suddenly discovers that it has no rights at all.

Does the taxpayer bear part of the responsibility? Sure it does. Can you blame the lawyers? Sure you can. Should the lawyers be sued? They're being sued. Will that process be complete any time soon? No, that's years and years, and in the meantime there's a tax sale that is rapidly overtaking the taxpayer, the Madresa.

Let me just focus on the city's concerns. In the letter, which I hope has been circulated to the committee—I hope the committee has a letter from Ms. Carbone, who is here, and a response from me. Ms. Carbone's letter is dated April 15, 2008, and mine is dated April 21, 2008.

1030

The Chair (Mr. Michael Prue): I just want to make sure that all the members of the committee do have that.

Mr. Mike Colle: Yes.

The Chair (Mr. Michael Prue): Everybody check and make sure you have those before we proceed.

Interjection.

The Chair (Mr. Michael Prue): Do you have a question of me?

Mr. Tony Ruprecht: Yes.

The Chair (Mr. Michael Prue): Go ahead.

Mr. Tony Ruprecht: If you could just refresh my mind for a second, did you just say that—

The Chair (Mr. Michael Prue): No, no. Excuse me, we aren't into the stage yet of asking questions, because we have to hear the other deputants as well. I thought it was a question of me.

Mr. Tony Ruprecht: No, I just wanted to save time.

The Chair (Mr. Michael Prue): All right, everyone now has it? Please proceed.

Mr. Phillip Sanford: Ms. Carbone has set out the city's position. She's here and her counsel is here and they may speak to it. Let me just summarize what I understand to be the position being advanced by Ms. Carbone.

She says that the city staff, at least, "are not aware of any satisfactory reason for the delay in seeking and obtaining an exemption before ... 2001."

She also says that various matters were considered by the assessment appeal tribunal, the ARB, and those decisions weren't challenged. With respect to the second point, they couldn't be challenged because of the error in the way in which the taxpayer proceeded.

On the first point, which is—I think that's the heart and soul of it. I don't think there are many circumstances where I would be prepared to take my own very limited time and come here and take your valuable time to try to persuade you to do something which is well out of the ordinary and should not be done except in extraordinary circumstances. What does take this out of the ordinary is the role of the city of Etobicoke and the predecessor of MPAC, the Ministry of Finance.

If the committee has my letter, I just pulled out a couple of examples from the file, and attached to my letter of April 21 there's a letter from the Etobicoke assessment office, as it then was, the regional assessment commissioner. It's from a very good assessor, a person for whom I have the highest respect. She's saying to the then solicitor, "Okay, if you're looking for an exemption, here's the information we need." That's a fairly typical example of the correspondence that goes on.

I gave you another letter, two years later, from her successor, the then valuation manager in the same office. He's talking about the section 442s and about a partial recommendation that the assessors are prepared to make. Then he says—and this is kind of telling. Mr. King, the valuation manager, in the last full paragraph in his letter says, "The 1998 tax year as discussed can be dealt with by an appeal or reconsideration. A letter is required to start the reconsideration process."

The difficulty with that: It's true that you can file an appeal, but only on consent could the Assessment Review Board actually have granted the exemption. It's true that a reconsideration request could be filed, but again, if there isn't concurrence by the taxpayer, the assessing authority and the municipality, then there's no jurisdiction.

This pattern of not warning the applicant is something that's changed. If I can say something positive about a provincial agency—and my friend Mr. Fleet sometimes gives MPAC a good thumping and perhaps they deserve it sometimes, but they also deserve credit for a lot of things they do right. I'll tell you from personal experience that one of a good number of things they do right is today, if a taxpayer is doing what these people were trying to do, the assessors give a warning and they're very clear about it. They write; they call. I've had assessors call me to say, "Look, there's a group that is getting itself in trouble because it hasn't brought an application. It may well be entitled to an exemption. They need some advice; they need some help."

I believe that that is now MPAC policy. I can tell you it's certainly the consistent practice. That's a good thing, but it wasn't the practice 10 and 12 years ago, for either municipalities or for the assessing authority, to give people fair warning that they were doing the wrong thing. So with great respect to the city as an entity and to its representatives, for whom I have a very high regard indeed, the city, and to some degree the province, contributed to the extraordinary circumstance the Madresa finds itself in. The only possible solution which would

allow those early years to be dealt with is the private bill. Those are my brief submissions.

The Chair (Mr. Michael Prue): Thank you so much. Are there any interested parties? I understand there are at least two present.

Mr. David Fleet: If there is an opportunity to address a point without duplicating any of the—I thought—useful comments of Mr. Sanford, I'd like to address the bill in the context of, typically, the role of this committee. I understand that there's at least contemplation of a ministry-inspired amendment to the bill coming forward—and to address that concept.

This bill might very well be called the "You get your day in court bill," or, "There's an opportunity for justice on the merits bill," because that's all the bill does. It gives an aggrieved taxpayer an opportunity to prove their case before an independent judge and, if there's merit, to get the treatment that they would have gotten had they brought it in sooner—and you've heard why there was a delay.

This committee has, to my knowledge, historically been one of the least partisan, most independent committees of the Legislature. The advantage of that has been that when technical issues come up—and every one of these private bills that I have ever heard of is technical one way or another, whether it's a corporation or a tax exemption; they're not like public bills, they're very specific to an individual situation. There's no press value here because there's not another one of these floating out there that we know of. We'd likely know if there was.

So there's a very specific situation and there's an opportunity for the committee to say, "Well, with whatever the technical issues are, here's an opportunity for some justice to be achieved in as least complicated a way as possible." However complicated it is getting here, it's not the same as a public bill going through the Legislature. There is, we understand, the notion of an amendment that would effectively force consultation back with the city going through 45 councillors. There are very tight time limits because of the tax-sale proceedings involving the property. It would be very unfortunate if that scenario, that extra burden, was imposed in this situation.

There are precedents for the bill to be considered and, if you think there's some justice in the situation, to approve the bill in its current form. These bills come through with some variations, but in this situation, I would suggest that the historic or traditional role of the bill would merit consideration and approval in its presented format.

I'd like to thank you for the opportunity to make submissions.

1040

The Chair (Mr. Michael Prue): Are there any other deputations from the applicants? Seeing no others, are there any interested parties?

I'm given to understand the city of Toronto may be interested. Please come forward. For the record and for

Hansard, please state your names—although I know both of you.

Mr. Terry Denison: My name is Terry Denison. I'm a lawyer with the city of Toronto. With me is Giuliana Carbone, who's our director of revenue services.

The Chair (Mr. Michael Prue): The city of Toronto is interested in this particular application. Please proceed.

Mr. Terry Denison: I'll be very brief. There are only two things I want to address. I think Mr. Sanford has gone through some of the sad facts in this situation. We all have some sympathy for the position that the Madresa has found itself in.

Our first comment is, generally, that under section 46 of the Assessment Act, there's provision for an application to be made to the court to deal with certain assessment matters that aren't dealt with in other parts of the Assessment Act, exemptions being one of them. That section is very specific. It says that the judge has power to deal with the matter in the year that the application is brought and on a going-forward basis, but not going back. In this particular instance, you're being asked to provide an exemption to the limitation period, which would take it back as far as 1994. In general principles, this is problematic for the city. If there's going to be a retroactive adjustment to the city's revenues going back that far, it's a problem. That's the general concern the city has. If you're faced with this kind of request, it is not a good precedent. I think it would be a precedent for others, even though it's not a public bill—I disagree with my friend Mr. Fleet—because people certainly read your proceedings, they read the bills you look at, and lawyers are clever enough to figure out whether there's an advantage for them to deal with them in this way.

That brings me to my second point, which is lawyers. In this case, it was clear that the Madresa was represented by counsel during the time these applications were made. You've heard from Mr. Sanford that in fact there is some kind of insurance claim, or at least the lawyers' insurers are, I guess, at the table and dealing with the claims that are made about this.

So, the second question you have to ask yourself is, what is the proper relief and remedy for this? Is it for the tax relief to be provided by allowing a court application which may, in effect, reverse the taxes that have been billed as far back as 1994, or is it proper for the lawyer dealing with it to have their insurer deal with it? It's a question, I guess, of where the fault lies and who pays. Is it the taxpayers, generally, or is it the insurer for the party who was responsible?

Those are our comments, unless there are any questions that the committee wishes to ask us.

The Chair (Mr. Michael Prue): No comments from Ms. Carbone?

Ms. Giuliana Carbone: From the city's perspective and from my professional perspective as the director for revenue services, my main concern is just having a set precedent and rendering time limits within the legislation. There may not be current properties in the same situation today, but on a go-forward basis, we're dealing

with properties on a regular basis, in terms of different assessment statuses, exemption statuses, and we do rely on the timelines within the legislation in order to manage those portfolios and provide for changes in assessment. Going back to 1994 is quite a lengthy period. It's also very difficult at this point to substantiate what the facts would have been that far back, in terms of the actual status of the property and whether it should have been a full exemption etc.

The Chair (Mr. Michael Prue): Thank you. Are there any other interested parties? Anyone else who wishes to speak to the issue, who has not already spoken? Okay.

Interjections.

The Chair (Mr. Michael Prue): We're going to get there. The next item I'm required to do is to ask the parliamentary assistant if there are any comments from the government.

Mr. Mario Sergio: Yes, we do have serious concerns and we have a number of question for both the applicant and the city of Toronto representatives before I make any comment.

The Chair (Mr. Michael Prue): All right. Then I will proceed to questions from committee members to the applicant, the parliamentary assistant or the interested parties. The floor is wide open. If we could have at least one—the lawyer from each side—and we'll deal with anyone else who gets called. I think that's the easiest way. I see Mr. Balkissoon first, then Mr. Miller.

Mr. Bas Balkissoon: I wonder if we could get Ms. Carbone back to the table. Can you explain to the committee, in terms of a religious organization like this coming to the city requesting an exemption, your procedure today and what it would have been before amalgamation? Is it as outlined by Mr. Sanford earlier?

Ms. Giuliana Carbone: The procedure today is, if an organization that feels it is exempt purchases a property in the year—so there's a change in use in the year—they apply to the city by the end of February of the following year to ask for a change in the assessment roll. That decision is heard by our government management committee, it goes through council and it's approved by council. If the property owner disagrees with the decision of council, it has 45 days, I believe, to appeal council's decision to the Assessment Review Board. That's how these applications would be dealt with today, in-year.

Prior to amalgamation, I don't feel confident explaining what each of the former municipalities did. One is because I didn't come into this portfolio until 1998, so I was not working in the taxation area prior to 1998. Plus, with six former municipalities, I would assume that the practice was similar to what Toronto does today because the legislation is similar, but I can't verify that.

Mr. Bas Balkissoon: Let's assume that all the various municipalities probably had similar but slightly different processes. In your current process, at any time do you advise the organization that it is a court that really decides on the exemption and it's not the municipality itself, based on the way the legislation is written?

Ms. Giuliana Carbone: Currently, because we deal with the application in-year, it is rightfully dealt with by council and then the assessors are to return the property correctly for the following year.

What we advise property owners is, if it's not returned correctly in the following year, they should be appealing that decision, because it's returned incorrectly. Sometimes, if it's returned incorrectly in the following year, there is the opportunity to do a gross and manifest error, where a roll is incorrectly returned. So there is that opportunity, and with gross and manifest, we can go back two years.

Mr. Bas Balkissoon: In a case where you have a building that is multiple-use by the applicant, and in this particular case there's a school, there's a place of worship and there could be other things—and I've had experience with a couple of organizations that had community centres and banquet halls etc.—is it normal practice to refer that to the assessment department, like MPAC, to review it and come back to you with a reassessment and the recommendations they have?

Ms. Giuliana Carbone: That's correct. We would refer the matter to MPAC on the assessment side, so that we could understand what portion of the property was being used for what purposes.

1050

Mr. Bas Balkissoon: Have you seen a copy of Mr. Sanford's material that he's provided to us, dated July 8, 1998, as to how the assessors were dealing with this particular group from 1994 on to 1998?

Ms. Giuliana Carbone: No, I haven't seen that particular letter.

Mr. Bas Balkissoon: I wonder, Mr. Chair, if we can have Ms. Carbone take a look at this. Would you say, based on this letter, that this was a situation where the city was waiting over a couple of years for the assessment department to actually visit the property and give advice back to the city, and then it would be taken through the normal process of a finance committee or government committee and on to council for final exemption?

Ms. Giuliana Carbone: That's correct. The city does wait for MPAC to make its recommendation on the assessment side so that we can calculate, based on the revised assessments recommended by MPAC, what the tax reductions or cancellations should be.

Mr. Bas Balkissoon: Could we assume, then, that Mr. Sanford is correct, that since amalgamation took place in November 1997, somewhere in the transfer between Etobicoke and Toronto something went wrong and this particular group has been caught up in that cycle of amalgamation and this is why it's been delayed for so long?

Ms. Giuliana Carbone: I know that with amalgamation we were struggling, especially in 1998, to gather all the outstanding files from all of the former municipalities to get them processed on a timely basis. I do believe that in this case, the applications that were

filed were dealt with by the city, just a little later than they would normally be dealt with.

Mr. Bas Balkissoon: There's a decision here in 2000 by the Assessment Review Board, I believe, on a reduction in taxes of certain amounts. Would those things have been reported to a standing committee and to council?

Ms. Giuliana Carbone: The decision of—

Mr. Bas Balkissoon: This particular group received a tax exemption, I believe for one year, if I remember my notes correctly.

Ms. Giuliana Carbone: The Assessment Review Board decision would not go to council. It would come through to revenue services so that we could process the decision.

Mr. Bas Balkissoon: So city of Toronto council would at no time have been aware that this group was seeking exemption, would they?

Ms. Giuliana Carbone: Not that I'm aware of, no.

Mr. Bas Balkissoon: Strictly the bureaucracy. Thank you.

The Chair (Mr. Michael Prue): Just one thing, and I'm sure it was inadvertent. The amalgamation took place January 1, 1998.

Mr. Bas Balkissoon: The election was November 1997.

The Chair (Mr. Michael Prue): Okay, but—

Interjection: The day of infamy.

Mr. Bas Balkissoon: Two months, my friend.

The Chair (Mr. Michael Prue): In case the date comes into conflict.

Mr. Bas Balkissoon: Okay, I'll correct my statement: January 1, 1998.

The Chair (Mr. Michael Prue): All right. Mr. Miller has the floor.

Mr. Paul Miller: I have some concerns about this situation. The lawyer for the applicant made some comments about lawyers being sued, so they obviously didn't do their job for the applicant, by the sounds of it. Secondly, I think there's been some miscommunication between the city, the assessors and the applicant of the property. However, I'm very concerned about a comment the lawyer made that it would have to go through a court and a judge would have to make a decision. What year did the applicant or the applicant's lawyers or you, sir, know about that opportunity to go in front of a judge?

Mr. Phillip Sanford: With respect to me, I knew it 30 years ago when I first started practising in this area, but this is pretty much all I do for a living. Most lawyers would not know that. I think a lawyer who deals in this area should inform himself or herself. In point of fact, it's an obscure little practice area, but it is not without its challenges. Many a good person has fallen afoul of this particular issue. The solicitors who did act—and by my account there were at least three who acted—did not know about the jurisdictional problem until they were informed. I will show you: Attached to Monday's letter is a letter dated May 17, 2000. It's from the firm Conway Davis Gryska, who are counsel for MPAC and indeed have represented the assessing authority for decades, and

done it very well. Mr. Gryska says in that letter to the then solicitors, "There are jurisdictional problems with respect to the exemption matter...." That was the first time that solicitor knew that there was a jurisdictional problem.

Not to belabour it, my point is that that wouldn't happen today, because the representatives of the assessing authority are very quick and very effective in raising the warning flag to say, "You're doing the wrong thing." You can say they don't have a legal obligation to do that; they do it because it's the right thing.

Mr. Paul Miller: All right. My next question was, from my notes the property was partially assessed for exemption; I believe the percentage was 29% at the time. That would have been 1998, around there.

Mr. Phillip Sanford: Actually, it was partially exempted on the recommendation of the assessors starting on September 1, 1995. They used this 442 process. That's correct.

Mr. Paul Miller: So obviously the balance is 71% that's taxable. Was there any dialogue between the city and the applicant about the shortfall or the necessity to pick up the 71% tax base?

I guess one of my main concerns is that it's quite a period of time—10 years, roughly. That obviously adds up to a lot of money, which would be a burden on the applicant and their organization, which is probably unfair—just a second; I know you want to speak—due to the fact that the application went forward—I'm just concerned that if somewhere down the line some lawyer knew you had to go in front of a judge—has that happened?

Mr. Phillip Sanford: It happened in 2001; the right thing was finally done in 2001. The exemption was granted, the city consented to it—

Mr. Paul Miller: The total exemption, 100%.

Mr. Phillip Sanford: The total exemption.

Mr. Paul Miller: So you're basically here today because of the backlog of the money, and the city is still pursuing the money that they feel they're owed up until that time?

Mr. Phillip Sanford: Yes. I'm not here to bash the city. The people to my right are people I have great respect for. Mr. Denison and I were classmates a hundred years ago. I said before, it's not a case of villains. But the city is obliged to pursue the tax arrears. We are subject to the law. Ms. Carbone, out of the goodness of her heart, can't say to me, "You know what? We're going to look the other way on this one"; she just can't do it.

Mr. Paul Miller: That poses a dilemma for us. What do we do now? Do we break the law? Do we say that there's an exemption? Are we recommending an exemption that you don't pay till 2001? Does that send a message to the public, to other people who may be in the same predicament, who are going to come before this committee on a regular basis? Are we talking lots of revenue loss for the cities or the province?

I mean, this is a very delicate decision. There are a lot of ramifications here. I must tell the committee that they

should be extremely careful on their decision on this, because it could have ramifications down the road for other people because it sets a precedent. Other lawyers will hear the decision. They have clients and they may come forward too.

1100

I'm just curious: Did the city ever talk about allowing them to pay a reasonable amount within their budget on the arrears? I'm always of the understanding that if you make an effort to pay a lawyer—for example, if I had a case where I owed a lawyer \$10,000, under the law, if I pay him \$100 a month—I'm making a genuine effort to pay—then there are no legal grounds for him to come after me, because I'm paying within my means. Whether it's \$50 a month or \$100 a month, whatever they could afford would send a message that they are going to pay, that these people are making an effort to pay, within their means, to the city, on the arrears. That's something that I think you might want to look at. That does not send a message to the public, "Oh, you just come in front of this committee and we're going to write off 10 years' or five years' worth of taxes"—or whatever.

I personally know friends who are in a financial bind. They don't have the money, they don't have the wherewithal and they make an effort to pay the lawyer \$10, \$20 or whatever it is. Maybe the city lawyer would know if that's possible. If you're making an effort to pay the city, would that be a possibility, rather than setting this type of precedent? It could be very dangerous for us, as the province and the city, to start this. I think the applicants, within means that are available to them—a small portion of money to make up for the difference, but to give a general write-off I think would send the wrong message, and I have very big concerns.

The Chair (Mr. Michael Prue): If I could, Mr. Miller, that was rather long. To whom is the question?

Mr. Paul Miller: The question would be to the city lawyer. Is there anything within the provisions that they make an attempt to pay a small amount of the arrears monthly, or whatever they can afford? Is that acceptable to the city?

Mr. Terry Denison: There were some attempts at discussions to look at that way of dealing with it. But we have to deal within a legislative framework and the arrears keep mounting. There's a statutory rate of interest and penalties that gets applied, so it multiplies at a rapid rate, in fact, to the point where this particular property is on what the city calls the large debtors' list, which is published every year. So it's a significant amount of dollars, in fact.

Mr. Paul Miller: Could the city, under the Municipal Act, do an amendment to set up some type of payment plan?

Mr. Terry Denison: It's not unusual. I think Ms. Carbone could address that.

Ms. Giuliana Carbone: The city does enter into payment plans with taxpayers. However, the City of Toronto Act, and prior to that the Municipal Act, doesn't provide a lot of discretion to the city in terms of tax

arrears. We can enter into payment arrangements, but we can't stop the accumulation of the interest that gets added on at the first of each month, and once it's added, it is like taxes. We have no ability to write off taxes unless there is an unsuccessful tax sale. So there is a process, and I can understand why that process is in place. In general, that process does work.

This is an unfortunate set of circumstances. As I explained in my letter, our main concern is just that such a bill would set a precedent for other properties in the future.

Mr. Paul Miller: It is a unique situation because it's a religious organization and a religious property which has met the exemption requirements, and they are exempt now. So it's not like a residential or commercial property. It's a church, a synagogue, a mosque, whatever applies to the situation. Would not the Toronto council have the ability to apply to amend the Municipal Act to address this type of situation because it's unique, because it's a religious situation?

Ms. Giuliana Carbone: The city itself does not determine exemptions except for—

Mr. Paul Miller: No. I know that.

Ms. Giuliana Carbone: We don't have the staff expertise. We're not assessors. There are a lot of criteria that the assessors follow. They do site visits etc. to try and determine—

The Chair (Mr. Michael Prue): Okay. I'll put you back on the list, but I have others. Mr. Ruprecht.

Mr. Tony Ruprecht: I have a question to Mr. Sanford, if you'd help me clear something up, please, about the city of Etobicoke's granting tax exemptions pre-amalgamation. Did you say that the city of Etobicoke granted the exemptions for the first year, when the property was purchased, and/or did the city of Etobicoke also grant exemptions for the following year or two or three years?

Mr. Phillip Sanford: I'm not sure what the record was, but the city of Etobicoke—two parts. As Ms. Carbone said, the city had the right—and cities today have the same right—to grant the exemption for a part year, the year in which the property changes from taxable to exempt.

Mr. Tony Ruprecht: And that did take place.

Mr. Phillip Sanford: It actually didn't take place, but it could have. It would have been right. What happened here—and ultimately you can see it in one of the letters I've given you—is that the city of Etobicoke received and processed what were called section 442 exemption applications for a series of years, at least 1995, 1996 and 1997. I will tell you, on my word, that they were acting beyond their jurisdiction when they dealt with 1996 and 1997. There's just no doubt about it. There are three lawyers sitting here. We all agree they did not have the right to do that. They did it for the best of reasons, but—

Mr. Tony Ruprecht: So they granted the exemption for three or four years.

Mr. Phillip Sanford: Partial exemption.

Mr. Tony Ruprecht: Partial meaning what?

Mr. Phillip Sanford: As Mr. Miller said, 29% of the property.

Mr. Tony Ruprecht: That was the partial exemption.

Mr. Phillip Sanford: Right.

Mr. Tony Ruprecht: Mr. Chair, you probably remember this, but it was this very committee, pre-amalgamation, who actually made recommendations to exempt churches and cultural institutions. So, just for clarification, for your own edification—

The Chair (Mr. Michael Prue): I thank you for that. I do remember, as mayor of East York, acting upon that on several occasions before 1998.

Mr. Tony Ruprecht: Then you came here, right?

The Chair (Mr. Michael Prue): Back to Mr. Balkissoon.

Mr. Bas Balkissoon: I have a question for Mr. Sanford. As has been discussed across the table here, the city is in a position of objecting because they stand to lose a lot of revenue. But as you stated before, there is a lawsuit between the organization and the lawyers of the day. To the best of your knowledge, is there an opportunity for the city to recover its losses through that lawsuit as a partner with this organization?

Mr. Phillip Sanford: No. It is conceivable that the city may get dragged into that litigation, but, no, the city can't make a recovery.

Mr. Bas Balkissoon: I need you to clarify once again—I think Mr. Fleet did—that the request of this committee is not to grant the exemption but strictly to give you the authority to allow a court to make that decision of the facts as they took place from 1994 onwards?

Mr. Phillip Sanford: Yes, that's precisely—

Mr. Bas Balkissoon: I just wanted to make sure that you clarify that; that all we're dealing with is giving you permission to go to a judge.

Mr. Phillip Sanford: Yes.

Mr. Mike Colle: Approximately how many dollars are we talking about in potential lost revenue to the city?

Ms. Giuliana Carbone: The arrears to date are over a million dollars.

Mr. Mike Colle: If we were to grant this bill and allow it to proceed to the courts, whatever, what is the objection and the concern that you have from the city if this were to be the case?

Ms. Giuliana Carbone: Our only concern is if that bill would set precedent. Our concern is that, in future, if there are other organizations that feel they should be exempt and they want to go back 10, 12 years, those would be granted; they would go forward for a private member's bill and try to do retroactive adjustments. Our only concern is truly the precedent that this might set. There are timelines within the legislation. I just wouldn't want them to be rendered meaningless.

1110

Mr. Kim Craitor: I need to understand, if I intend to support this bill. I was a city councillor for 10 years, so I have some knowledge. Tell me again, what makes it different? What are those extenuating circumstances that

make it unique for you to make this application? I've listened to some of those things about amalgamation and maybe getting lost in the system. Can you give me those 10 points again that make it a unique situation, not a precedent—that there's an extenuating reason why this should be looked at.

Mr. Phillip Sanford: Yes. Thank you for the opportunity. I was champing at the bit hoping somebody would give me a chance.

I have a world of respect, genuine respect, for my friends at the city, and I understand the concern about precedent. People ask me on a regular basis, when they have failed to file appeals or they've done the wrong thing, whether it can be fixed. I tell them on a regular basis, "No." What makes this unique in my experience is that you have a very worthy organization which is lost in the system where two groups of people who are trying to do the right thing—the Etobicoke assessors and the staff at the city of Etobicoke—work with the Madresa for years trying to come to an appropriate solution for them.

Perhaps it just didn't occur to anybody that it might all come crashing down if at some point somebody said, "Isn't there a jurisdictional problem?" I know of no other situation like this where it all ended in tears. I know of a good many situations where successive year section 442s were processed, dealt with on consent. As I said before, that was a practice that was beyond the limits of the law, but it was done for the best of reasons. I just don't know of any other situation which would allow anybody to come here and make the argument that this particular group is making.

I hear the floodgate argument, and as litigation counsel, I'm often making the floodgate argument myself. I can well understand why it would be of concern to the committee. I honestly just don't think that approving the bill would open the floodgate an inch.

Mr. Fleet has a fair bit of experience in this area too, and he may have something to add.

Mr. David Fleet: I completely concur. I have personal knowledge of the practices that Mr. Sanford has testified to that really stem from the Etobicoke assessment office. They were physically very close to the municipal offices. Essentially, the staff was working in tandem to deal with things in an expeditious fashion. I must say, this is the only time that I'm aware of where it didn't work out. That makes it extraordinarily unusual, in and of itself.

But even that's not the only basis for distinguishing it, Mr. Craitor. The other reality is, it's not real likely that you're going to see a humongous amalgamation take place in the fashion that you all experienced. I don't know of another scenario, even where they've had amalgamations, where it was the series of events coupled with one more change, which was you had impact being created. All of these changes happened almost one right after the other, but very close to one another in time. It took all of these unfortunate events happening at once and catching up one poor soul of a taxpayer, an organization that thought they were doing everything the right way, and it turned out that it wasn't quite done the right way.

At the end of the day, in the comments I made earlier, the bill is intended to allow for justice to be done if it can be shown to a judge that it ought to be done. There's no tax exemption being granted by this committee. This committee is not relieving a nickel—that goes to a judge. Either it's proven or it's not, but it's done in a fair fashion. It's justice. That's the idea.

The Chair (Mr. Michael Prue): Mr. Miller, I did cut you off earlier. Did you have any additional questions? Then I have Mr. Ruprecht.

Mr. Paul Miller: Just a final comment. In reference to the judge, the decision of this committee is going to have a bearing on how the judge reacts to the case, whether you want to admit it or not. He's going to take a look at, "The parliamentary committee suggested that you reopen this, look at it and deal with it." Granted we're giving him direction, but are we providing a vehicle for other groups to come through this committee, through the legislative rules, to go on to the judge? Are we providing a vehicle where we're going to have—you say, no, we're not going to see any more of this. I'm not sure. If we do, are we just a pylon for the judge? Are we just going to be a rubber-stamp outfit that's going to say, "Just go through us; go through the judge"? I'm concerned about that. You may laugh, but what purpose are we serving as a body to just say, "Well, we'll just go through the ringer here, and you can just go on to the judge and he'll deal with it"? I don't understand. What is our purpose here? Why do you need us?

Mr. David Fleet: The short answer to your first question is, no, the judge is not going to get direction from this committee. All the taxpayer is going to get is the opportunity to go to the judge. That's the only decision that this committee is being asked to pass a bill concerning. The merits have to be proven in the ordinary course, no different than anybody else who wants to qualify for a particular tax exemption.

It's difficult for me to imagine how it could be that another person could bring forward a private member's bill. I must tell you, bringing forward a private member's bill is not an easy thing to do, it takes a lot of determination and effort, and, given how long it's taken to get here, you don't get here quickly. The reality is that the Legislature, I suppose, can rule on anything at any time. As a practical matter, just because one bill goes through doesn't mean that anybody else has grounds. It's the grounds that ultimately matter. That's what a judge will decide on. He or she will decide on the basis of the merits. That's really all that it's suggested ought to have been done in the first place. That's all that anybody is really putting forward.

It's very difficult for me to imagine that this committee is going to become such a hotbed of private members' bills. You're going to get them dribbling in for different reasons at different times, I doubt for the reasons that you've seen today.

Mr. Paul Miller: So as a lawyer I can get that in writing, can I?

Mr. David Fleet: You can have a transcript. I can sign it if you want the autograph.

Mr. Tony Ruprecht: The sponsor of this bill is our esteemed colleague Dr. Qaadri. Whatever happens here today, I'd like Dr. Qaadri to ensure that the message goes back to the members of Madresa Ashraful Uloom that this committee is very sympathetic to their request but we're at an impasse.

I think the suggestion that was made by Mr. Miller is an interesting one. If we are unable to follow up on this today, maybe there's a way we can follow up another time with another motion. But I think it's important for us to ensure that Dr. Qaadri gives the message back to the members that this committee has certainly been very sympathetic to the cause.

Mr. Mario Sergio: Mr. Chairman, through your indulgence, I have some motions that will be put on the floor. I wonder if they could be distributed now, before I make some comments, and perhaps take advantage of a 10-minute adjournment, if you will, so everybody has an opportunity to look at the motions. Then we'll know what we're dealing with. Can I have a 10-minute recess?

The Chair (Mr. Michael Prue): If I could, because they're going to have to be read into the record, I will allow you to read them into the record and then we will take a 10-minute recess so that members can take a look at them, all right?

Mr. Mario Sergio: Okay. That's fair.

The Chair (Mr. Michael Prue): If you would read the motions you want to make so that we—

Mr. Mario Sergio: The motions are being distributed now.

The Chair (Mr. Michael Prue): I have before me three. Are there three motions?

Mr. Mario Sergio: Yes.

The Chair (Mr. Michael Prue): All members have them, so you can follow along.

Mr. Mario Sergio: The first two motions are technical in nature, and the third motion perhaps deals with the exact point that we all want to deal with, and that is the request of the applicant, I would say. If all the members have the motions now, I'll read them. Mr. Chairman?

The Chair (Mr. Michael Prue): Go ahead.

Mr. Mario Sergio: I move that subsection 1(1) of the bill be amended by striking out "In this section" at the beginning and substituting "In this act."

Motion number 2: I move that subsection 1(2) of the bill be struck out.

The third motion: I move that—

The Chair (Mr. Michael Prue): Excuse me. The clerk has correctly reminded me that only one can be moved at a time.

Mr. Mario Sergio: One at a time?

The Chair (Mr. Michael Prue): One at a time. So I think—

Mr. Mario Sergio: I thought I was supposed to read the three motions.

The Chair (Mr. Michael Prue): Yes, I thought so too, because it seemed that it was going to be expeditious. But people now have them. We'll just deal with the first motion. We will take the 10-minute recess, and everyone can have a look at the three.

Mr. Mario Sergio: Okay. Thank you.

The Chair (Mr. Michael Prue): It is now 20 after. We will resume promptly at 11:30. This meeting stands recessed for 10 minutes.

The committee recessed from 1120 to 1130.

The Chair (Mr. Michael Prue): I call the meeting back to order, it now being 11:30.

We have motions that are properly before us. What I intend to do is deal with each of them in turn, but to ask the legislative counsel to comment on them and what each of the motions means. The last one is particularly complex, and I want to make sure all members understand what it does.

The first one is striking out "In this section" at the beginning and substituting "In this act." The purpose of this?

Ms. Catherine Oh: If a section 1.1 is added to the act, then the definition would have to apply to the entire act and not just to section 1.

Mr. Mike Colle: We can't hear you.

Mr. Mario Sergio: Mr. Chairman, sorry—

The Chair (Mr. Michael Prue): Yes, I'm going to let you comment next. I just want the legal advice as to what it means, and then you can explain why it's being moved.

Ms. Catherine Oh: Currently, if it says section 1, it would apply only to that one section. We're trying to add here possibly a section 1.1 of the bill, so that would make it two sections in which that definition would need to apply.

The Chair (Mr. Michael Prue): So this is merely to allow a subsequent motion to take effect.

Ms. Catherine Oh: Yes.

The Chair (Mr. Michael Prue): Okay. The parliamentary assistant.

Mr. Mario Sergio: Before we go into the motions themselves, I want to address the Chair and the committee. Let me say that we are all sympathetic to the application and want to do the right thing. But, given the history of the application and the difficulties that have taken the process to this stage here—and there are still existing problems with it, not necessarily with this committee but with the way the application has been handled over the years, and the legalities and jurisdictions and so forth—I would kindly ask the committee to decide today and defer for one week until we work out some extenuating circumstances and bring the application back within a week. The motions were just circulated now, even to the applicants, which I was not aware of at the beginning. So I wonder if it is appropriate to delay a decision until next week.

The Chair (Mr. Michael Prue): We have a motion of deferral. First of all, I just want to make sure that the applicants and the city of Toronto have no difficulty with this. Is there any difficulty if this matter is deferred until

next week? And I am mindful that on August 15 of this year, the city can, if they choose to do so, estreat the property, so we're running very close on time. Do you agree that this matter be put over for a week?

Mr. Phillip Sanford: Yes, sir. The applicant is certainly content.

The Chair (Mr. Michael Prue): All right. And the city of Toronto?

Mr. Terry Denison: Let me understand the reason for the request for a deferral.

The Chair (Mr. Michael Prue): My understanding—and I'm only paraphrasing it—is that it is in order to give an opportunity to all parties, and the members of committee as well, to look at the motions that are being made. They have simply now been circulated. As the Chair, I did not see them until I got them. I know all members would be in that boat, save and except possibly the parliamentary assistant. I don't know when he had them, as the mover, but I do know the other members saw them for the first time as they were distributed, and he is asking for an opportunity for the members and others to study them. So that's the reason he's asking. Do you have any objection? If you do, so state.

Mr. Terry Denison: Let me just, hopefully to save time for everyone—I have just seen this as well this morning, but as I understand it, what it's suggesting is that it add in a requirement for the city of Toronto to have council pass a resolution dealing with this. In fact, if the bill were to go forward in its submitted form, and that enabled the applicant to commence a court application, the normal course of events for city legal staff on that application would be to obtain our instructions from city council as to how to respond to the application. So I don't think adding on this request for a resolution adds anything into the bill that wouldn't occur in any event. If I can offer that comment, if that saves the deferral, then I offer it. It doesn't change our position on the main bill, but I don't think this really helps.

The Chair (Mr. Michael Prue): Okay, now we've had comments. Discussion? This is a motion of deferral. Motions of deferral are generally not debatable, so can you state the rationale for the deferral?

Mr. Mario Sergio: If I may—and I will try, Mr. Chairman—I think this is exactly the point that we are trying to make here, with all due respect to the solicitor for the city: If we were to discard the motions, as I intend to, and go directly forward with the approval, then within the same bill as presented, the applicant would have the right to go to court. If the court were to render a decision, where would the city of Toronto be at that particular time—if the court had that authority, I would assume.

So in order to look at all of that, to look even more in depth with our staff, with the existing appeal and the motions forwarded, I think one week would be of benefit to both—not only to the committee, but to the applicant and the city as well. I would again move that we have a week's deferral, Mr. Chairman.

The Chair (Mr. Michael Prue): We have a motion, then, of deferral. Is the committee ready to vote?

Mr. Paul Miller: Mr. Chairman, would additional information be important to say before the deferral, or after?

Mr. Mario Sergio: Yes, if there is any further information, it should be provided in advance to the members, Mr. Chairman.

The Chair (Mr. Michael Prue): So if the deferral is granted, the parliamentary assistant will ensure that the information is made available to all parties by when?

Mr. Mario Sergio: The day before; would that suffice? Or as soon as possible, if there is any new information.

The Chair (Mr. Michael Prue): Is it possible to commit to Monday, to give two days—

Mr. Mario Sergio: Two days? I'll try, I guess. I'll have to discuss it with the staff.

The Chair (Mr. Michael Prue): I would prefer—

Mr. Mario Sergio: Or not later than the day before, to be more specific?

The Chair (Mr. Michael Prue): Not later than the day before; at least 24 hours in advance, okay?

Mr. Mario Sergio: Okay.

The Chair (Mr. Michael Prue): So everybody understands the motion of deferral and what's going to happen with it? All those in—

Mr. Paul Miller: Mr. Chairman, can we have discussion after the deferral?

The Chair (Mr. Michael Prue): On?

Mr. Paul Miller: On new information. Once you defer it—

The Chair (Mr. Michael Prue): The deferral will stop the meeting cold right now.

Mr. Paul Miller: That's what I'm trying to say. I would like to—

The Chair (Mr. Michael Prue): It will stop the meeting cold on this point. There is still one other minor item, being the letter that I wrote to the ministry.

Mr. Paul Miller: All I'm saying is the point of information that has come to my attention—would I be able to divulge it today? Because you're doing a deferral. Once you've done that, I think we're pretty well done.

The Chair (Mr. Michael Prue): No, no. It's deferred. It means that the committee will hear and continue the deliberations with additional questions, if necessary, next week.

Mr. Paul Miller: Oh, next week?

The Chair (Mr. Michael Prue): Next week.

Mr. Paul Miller: The point that I'm trying to bring forward, Mr. Chairman, is the fact that you might want to research this before next week. So before you vote on the deferral, I have a short two-second statement that might be beneficial to this committee and the decision of the members.

Mr. Mario Sergio: If we defer the application, we have other opportunities. Otherwise—

Mr. Bas Balkissoon: Share that with him privately.

Mr. Paul Miller: I'm not sure I want to go that way.

The Chair (Mr. Michael Prue): We have a motion of deferral. It does not need to be with instruction. A motion of deferral has been made. If you don't like the motion, then you don't have to support it.

All those in favour of the motion of deferral?

Mr. Mario Sergio: A recorded vote, Mr. Chairman.

Ayes

Balkissoon, Colle, Craitor, Paul Miller, Ruprecht, Sergio.

The Chair (Mr. Michael Prue): Then there is a unanimous motion of deferral.

This matter stands adjourned until the next hearing, which will be Wednesday the 30th at 10 o'clock. That's on Bill Pr5. Until next week at 10 o'clock.

There is one other item, if I could. Are there copies for the members? I could just read it out. We're just having copies made of the letter that I sent to Minister McMeekin, because there were a number of statements made this morning on the first two bills about where we're heading with this. I want to make sure, before it is actually sent, that the members are satisfied with the content. There were questions and debate in the last meeting, and questions and debate again in this meeting, on how we proceed.

The members now have a copy of the letter that I propose to send on behalf of the committee to Minister McMeekin. If you're satisfied with it, that will conclude the—

Mr. Bas Balkissoon: It's perfect.

The Chair (Mr. Michael Prue): I have one "perfect."

Mr. Mario Sergio: —more than just revivals? Were there other—

Mr. Bas Balkissoon: I think the ministry staff pointed out two or three situations.

The Chair (Mr. Michael Prue): The entire transcript will be sent along with the letters. They will get it all.

Mr. Bas Balkissoon: Send the minister's staff a transcript with it, because he admitted to a few little grey areas.

The Chair (Mr. Michael Prue): Okay. There are a number of discussions going on. Is everyone satisfied with the contents of the letter? Not hearing anything else, that's fine. It will be sent.

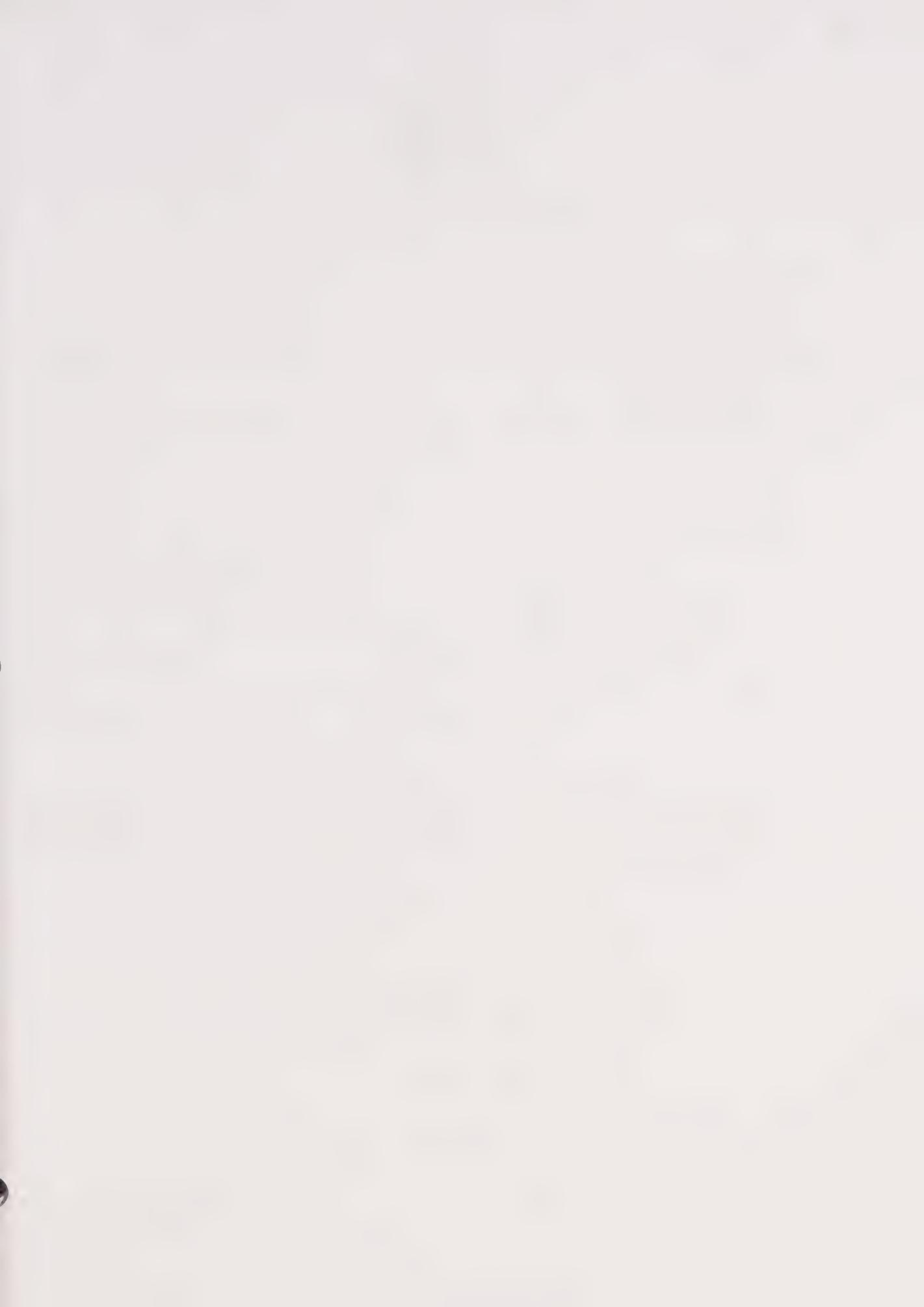
A motion to adjourn?

Mr. Paul Miller: Motion to adjourn.

The Chair (Mr. Michael Prue): All those in favour? Opposed? Carried.

This meeting stands adjourned. We will meet again one week hence.

The committee adjourned at 1147.



CONTENTS

Wednesday 23 April 2008

827291 Ontario Ltd. Act, 2008, Bill Pr7, Mr. Naqvi	T-15
Mr. Yasir Naqvi, MPP	
Mr. Shannon Martin	
Mr. Patrick McCarron	
719226 Ontario Limited Act, 2008, Bill Pr8, Ms. Jaczek	T-16
Ms. Helena Jaczek, MPP	
Mr. John Alousis	
Mr. Andrew Van Gastel	
Madresa Ashraful Uloom Act, 2008, Bill Pr5, Mr. Qaadri	T-16
Mr Shafiq Qaadri, MPP	
Mr. Phillip Sanford	
Mr. David Fleet	
Mr. Terry Denison	
Ms. Giuliana Carbone	

STANDING COMMITTEE ON REGULATIONS AND PRIVATE BILLS

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Mr. Bas Balkissoon (Scarborough–Rouge River L)

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Mr. Michael Prue (Beaches–East York ND)

Mr. Tony Ruprecht (Davenport L)

Mr. Mario Sergio (York West / York-Ouest L)

Also taking part / Autres participants et participantes

Ms. Helena Jaczek (Oak Ridges–Markham L)

Mr. Yasir Naqvi (Ottawa Centre / Ottawa-Centre L)

Mr. Shafiq Qaadri (Etobicoke North / Etobicoke-Nord L)

Clerk / Greffière

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Staff / Personnel

Ms. Catherine Oh, legislative counsel



T-5

T-5

ISSN 1180-4319

Legislative Assembly of Ontario

First Session, 39th Parliament

Assemblée législative de l'Ontario

Première session, 39^e législature

Official Report of Debates (Hansard)

Wednesday 30 April 2008

Journal des débats (Hansard)

Mercredi 30 avril 2008

Standing Committee on Regulations and Private Bills

Comité permanent des règlements et des projets de loi d'intérêt privé

Chair: Michael Prue
Clerk: Sylwia Przedziecki

Président : Michael Prue
Greffière : Sylwia Przedziecki

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Telephone 416-325-7400; fax 416-325-7430
Published by the Legislative Assembly of Ontario



Service du Journal des débats et d'interprétation
Salle 500, aile ouest, Édifice du Parlement
111, rue Wellesley ouest, Queen's Park
Toronto ON M7A 1A2
Téléphone, 416-325-7400; télécopieur, 416-325-7430
Publié par l'Assemblée législative de l'Ontario

LEGISLATIVE ASSEMBLY OF ONTARIO

**STANDING COMMITTEE
ON REGULATIONS
AND PRIVATE BILLS**

Wednesday 30 April 2008

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

**COMITÉ PERMANENT DES
RÈGLEMENTS ET DES PROJETS DE LOI
D'INTÉRÊT PRIVÉ**

Mercredi 30 avril 2008

The committee met at 1002 in committee room 1.

MADRESA ASHRAFUL ULOOM ACT, 2008

Consideration of Bill Pr5, An Act respecting Madresa Ashraful Uloom.

The Chair (Mr. Michael Prue): We'll call the meeting to order. Just to recapture what happened the last time, we had a motion on the floor. A motion was moved by the parliamentary assistant that the bill be amended by striking out "In this section" at the beginning and substituting "In this act." There was an opportunity at that point, as well, to allow for further consultation and further debate, and I trust we are ready to proceed.

We did have people before the committee from both the city of Toronto and from the applicant. Are there any further questions of those people from committee?

Mr. Bas Balkissoon: Is there anything the applicants would like to tell us?

The Chair (Mr. Michael Prue): If you're asking questions of them, then I invite them to come forward.

Mr. Shafiq Qaadri: As you know, we're back here once again considering this particular act. I inform my colleagues here that since we last met, there has been a site visit by city solicitors. I also understand that Mr. Fleet has come prepared to address some of the concerns with regard to the idea of setting a precedent, and I would invite the committee to hear his remarks.

The Chair (Mr. Michael Prue): Is it the committee's wish to hear the remarks? Please proceed.

Mr. David Fleet: I'm here on behalf of both Mr. Sanford and myself. He had a previously arranged speaking engagement, and on his behalf, I apologize that he wasn't able to be here too.

We were specifically asked to enumerate for the committee those elements that set aside Bill Pr5 from other potential precedents, and in order to do that, I went through our materials. There are 17 separate points—not that I set out to have a long list, but that's just what's there. I don't want to repeat in any detail any of the previous documents or arguments, so with your accommodation, I'll just list off all of the points.

First, the factual background involves actions of an old assessment authority, which was the local office of the Ministry of Finance, which is now gone.

Second, it involves actions of an old municipality, which was the old city of Etobicoke, which is now gone.

Third, it involves an idiosyncratic and outdated assessment practice, on a local basis, which is how they recognized tax-exempt properties.

Fourth, it involves a similarly unusual municipal practice, on a local basis, that was tied into the assessment practice, which was how they processed what were called section 442s.

Fifth, there was unchallenged and direct testimony about those practices, both from Mr. Sanford and myself.

Sixth, there's been a change in procedure in terms of the current assessment authority. MPAC gives notice to taxpayers of the need to commence a court proceeding, and had that happened, we wouldn't be here today.

Seventh, there's been a change in procedure by the current municipality. The city of Toronto requires full compliance with the Assessment Act, as well as the City of Toronto Act, 2006.

Eighth, there's a bona fide applicant. It's unquestioned that it's bona fide because there's been full recognition of the tax exemption provided, starting in 2001.

Ninth, the committee is not being asked to grant a tax exemption but only an opportunity for the applicant to have a day in court.

Tenth, if the bill is passed, the usual court rules will thereafter apply, so there's no leg up for the applicant compared to the law under the Assessment Act that applied to other taxpayers for the years in question.

Eleventh, last week the city had raised the question of possible prejudice due to the passage of time. I suppose that's true to an extent, but only in the sense that there's an onus on the applicant in court. So, if there is any prejudice, it's only to the applicants, not to the city.

Twelfth, there's been an extraordinary level of consultation at the provincial level of government. This bill has now been scheduled before this committee on four separate occasions, starting last spring, when it was adjourned at the last minute at the request of one of the ministries, and then two prior attendances over the last month.

Thirteenth—and this is a key point from last week—the principle of city consultation, in our view, has been satisfied. The city has now provided a letter to the committee, they made submissions in person last week, and

there are two representatives again this week who are present.

Fourteenth, the ministry has proposed amendments to the bill—and I take it the committee will be considering them in a few minutes—and the purpose of those amendments, as we understand it, is a sense of deference to the city. Ironically, we heard from the city representatives last week that those amendments were prepared without prior consultation with the city and were described as unhelpful to the city, which would suggest, we would submit, that you don't need the amendments.

Fifteenth, this bill mimics the Malton Seventh-day Adventist Church Act, 2004, which was Bill Pr1 back in 2004, so Bill Pr5 that's before you today is not groundbreaking.

Sixteenth, there's no known new property hiding in the wings—one of the worries about a precedent—with facts that apparently resemble remotely the facts in this case. I don't mean to suggest that nobody will ever come forward with another private member's bill about a tax exemption; just not on the basis that you've seen anything coming forward and all the documents that have been put before this committee already.

Seventeenth, in trying to fulfill the request made to us by members of this committee, both Mr. Sanford and I gave thought to the concept of a precedent. In common law, lawyers will describe this as a doctrine of stare decisis if you're in front of a court. But that doesn't exist for this committee.

1010

The best analogy I could come up with in terms of the role of this committee, in terms of private bills, is that there is really no precedent in Bill Pr5, or probably any other bill. Over the years, lots of these bills come forward. It's rarely, if ever, more than a trickle. There's no flood. It just doesn't happen that way. Every bill is individually considered.

The analogy that came to my mind is, if you were to think about what scientists would call—and I don't pretend to be a scientist myself. If they encounter a rare phenomenon that doesn't fit within the conventional scheme of scientific theory, they will usually call that event a singularity. You can have more than one singularity, but no one singularity necessarily relates to or is similar to another.

Private bills are like that as well. They're individually considered. They're not matters of public policy in the same sense that public bills are. In that sense, although I understand the staff concern about the notion of precedent, that's not the purpose of a private bill, which is targeted to either one entity or one property.

Hopefully, by putting that on the record as we were asked, that will be of assistance. There will be a Hansard. It's a record of why Bill Pr5 has come forward. We would urge the committee to adopt it without amendment. I'd like to thank you again for all the consideration that's been given.

The Chair (Mr. Michael Prue): Any further questions? Seeing none, thank you. Does anyone have ques-

tions of the city of Toronto or anyone else at this point? Any other questions to be asked?

Mr. Paul Miller: I just want to know if there have been any other situations regarding religious complexes that have paid their—once they were deemed, say it was 2000, that they got the ability to be designated as a religious centre. From then they were exempt—the period from 1994 to 2000. Are there any other cases you know of that they did pay their back taxes before they got their designation?

The Chair (Mr. Michael Prue): Just for Hansard, your name for the record.

Ms. Giuliana Carbone: Giuliana Carbone, director of revenue services for the city of Toronto. I do recall properties—I'm not 100% sure if they were religious, but they were properties that would have been exempt, but they didn't apply on time, so they would have had to pay a portion of the taxes prior to the exemption coming into effect. Then they would continue to be exempt from there on.

Mr. Paul Miller: So there is knowledge of that. If we did any research, there may be other cases in the province that are similar. Once a piece of property has been designated, then the prior time of back taxes would have been paid up in full?

Ms. Giuliana Carbone: Yes.

Mr. Paul Miller: Okay. Thank you.

Mr. Bas Balkissoon: On that note, Ms. Carbone, can you clarify? Since you're saying there are other organizations that paid their back taxes, would they be in a similar state, where they had applied to the city and it had been dragged out for many years and they ended up giving up and just paying—which is similar to this organization. This organization had applied in 1995.

Ms. Giuliana Carbone: That question is difficult for me to answer because I came into the organization, into this particular portfolio, in 1998. From my years, I don't recall that. That doesn't mean that—prior to amalgamation, there may not have been a case. So I can't answer that with confidence.

Mr. Bas Balkissoon: So really the issue about a flood or whether there were people, you're not 100% accurate—that is, similar and paid?

Mr. Paul Miller: Mr. Chair?

The Chair (Mr. Michael Prue): He's still asking a question. Then I have Mr. Ruprecht, and then back to Mr. Miller.

Ms. Giuliana Carbone: You're referring to my concerns about this setting a precedent?

Mr. Bas Balkissoon: No. Mr. Miller asked a question, had there been organizations that applied and did not get the back taxes paid because of whatever reason. I'm asking if you have evidence that they had applied previous to the day they were granted exemption: therefore, the period of qualification from the date they received charitable status or the date they applied to the city. Have you got hard evidence that they are similar to this one? This one applied in 1995. It got dragged out until 2000, when it finally went to court, and then the

court granted it from 2000 going forward. Do we have a flood of applications similar to this one at the city where the groups have just gone away and you're worried that if we grant this one, they'll come back?

Ms. Giuliana Carbone: Truly, I'd have to go back to the office and do some research. In terms of this particular case, there were applications. Those applications were heard. The dilemma is that the organization didn't apply to the courts for the exemption until 2001. The applications that the city received were heard. There was a little hiccup there with amalgamation, but those applications were heard.

Mr. Bas Balkissoon: And they were granted?

Ms. Giuliana Carbone: That's correct, to a percentage.

Mr. Bas Balkissoon: Thank you.

Mr. Tony Ruprecht: This is to Mr. Fleet. If there indeed is no precedent to this case, how does that connect with the example you gave of the United Church? I think you said it was in Mississauga.

Mr. David Fleet: The Adventist—

Mr. Tony Ruprecht: The Adventist church, right.

Mr. David Fleet: I don't know all the facts behind that case, but I do know there was a private bill that went through that granted a time extension to go to court so they could prove the facts of their case. I don't know all the facts in that case, and there may have been others in the more distant past that came forward. The point I was trying to make is that the concept of coming forward to the Legislature for a private bill for an individual property merits consideration of every bill on its own merits, and you don't go beyond that.

The fact that it was granted in one or denied in one doesn't mean that when the next one comes up, there is an evaluation of its merits, if they exist. I doubt very much if the facts in that case resembled the facts in this case, because the facts in this case I would describe as extraordinarily unusual, and a whole series of events, not just one event.

But the notion of a bill drafted with the same structure to the bill: This is not a precedent in that way. That precedent, if there ever was one, was long since set. The worry was expressed to us that maybe this bill was creating something new that had never been done before, and as far as I'm aware, that's not the case.

Mr. Tony Ruprecht: Thank you very much, Mr. Chair. This answers my question.

Mr. Paul Miller: I appreciate the solicitor's analogy of how this committee should work and what he feels is non-precedent-setting. My question was, which I didn't get answered last time, if there are groups out there that were exempt, and before the exemption they did pay their back taxes, are they going to come back at the municipality or anyone else involved to say, "You granted this organization exemption of paying their back taxes. We paid"—whatever number; let's pick a number—\$500,000 or \$400,000—whatever they paid. Are they going to say, "We want our money back because we were in the same situation, but you took our money for our back taxes."

Now you're exempting this organization from paying their back taxes. We are going to set out in law a case and lawyers would be involved. We're going to put a suit in against the city for our money back because you've exempted them?" It could be grandfathered. They would go under that analogy. That's my concern, that people who had gone through this before and were forced to pay their—not forced—who should have paid their back taxes are going to say, "This is not fair. You've allowed one group not to pay it and they owed whatever amount they owed. We paid a substantial amount of money from our religious organization which we could use for our church and our congregation." What are you going to say then?

Mr. David Fleet: No.

Mr. Paul Miller: No?

Mr. David Fleet: There's no way this private bill, if passed, would recover from all possible mistakes you made in the past precedent. It just doesn't do that. No knowledgeable and responsible solicitor is even going to give that advice. Lots of my clients would have liked to claim something that maybe in theory they could have done in the past. This bill doesn't do anything to help them or anybody else I can imagine.

Mr. Paul Miller: Well, in my experience, sir, with unions, past practice does come into the consideration on new collective agreements. They do that. Lawyers do use past practice to come to an agreement. So I'm not quite sure I agree with you on that.

1020

Mr. David Fleet: Curiously, though, I've been a mediator and occasionally an arbitrator in labour disputes, and I understand the notion of past practice, but I don't think the context of past practice in labour relations matters has any applicability, candidly. From my point of view as a lawyer, it would be great if it did. I could bring in all kinds of things and ask for relief for my clients, but it's just not viable, and I can't imagine anything in Bill Pr5 doing that. There's always the possibility of a ghost out there, I suppose, that will materialize, that nobody's heard of, but it is a ghost-like consideration. There's nothing tangible that any of us has been able to touch in any way, shape or form at the city, the province or individually, Mr. Sanford or I or my partners, when we've talked about this case.

It's difficult for me to imagine in any context that anybody's going to hit all 17 of the points I've rhymed off and say, "Gee, we're just like that one." It's more in the nature of a singularity. Somebody would have to come forward with a different set of facts.

Mr. Paul Miller: Would it be my understanding that lawyers can be creative and they can challenge legislation and it's their job to make changes and amendments; is that not correct?

Mr. David Fleet: It can be, but it doesn't mean you're going to win just because you raise an issue. My career would be different if that were true.

Mr. Paul Miller: My questions are finished. Thanks.

Mr. David Fleet: But thank you very much.

The Chair (Mr. Michael Prue): Is this a question or to proceed?

Mr. Mario Sergio: To proceed.

The Chair (Mr. Michael Prue): Okay.

Mr. Mario Sergio: I'm ready to proceed, Mr. Chairman.

The Chair (Mr. Michael Prue): All right. I take it, then, there are no additional questions. I thank the applicant. We will proceed. We have a motion on the floor. Is that motion to proceed or will you be withdrawing it?

Mr. Mario Sergio: It is to proceed. I don't know which motion you have. I have three different motions.

The Chair (Mr. Michael Prue): There's only one motion on the floor. I will read the motion that's on the floor.

Mr. Mario Sergio: We had started, but we didn't finish. If you'll recall, we didn't—

The Chair (Mr. Michael Prue): I know we didn't finish, but the motion was on the floor and it hasn't been withdrawn. The motion that was on the floor was, "I move that subsection 1(1) of the bill be amended by striking out 'In this section' at the beginning and substituting 'In this act'." That was moved.

Mr. Mario Sergio: That's the first one.

The Chair (Mr. Michael Prue): And that's still being moved.

Mr. Mario Sergio: It is still being moved. It's technical in question. Unless the members want some explanation, it's all technicalities.

Mr. Paul Miller: I'm always interested in technicalities.

Mr. Mario Sergio: This particular one, which is the first motion in the package, would strike out "In this section" at the beginning of subsection 1(1) and substitute "In this act." In effect, this motion would make the definition "specified property" in subsection 1(1) apply to the new provision to be added by another motion, which is the third one. There's a third motion coming up.

Mr. Paul Miller: So you're basically amending 1 through 3?

Mr. Mario Sergio: That's right.

Mr. Paul Miller: Maybe you could spell out the new provision in more detail, what you're trying to do here, because it was a little confusing.

Mr. Mario Sergio: You have to wait. The third motion, I would say, is the more substantive one.

Mr. Paul Miller: Could you read the third motion to me—

Mr. Mario Sergio: The third one?

Mr. Paul Miller: —if they're interlocking?

Mr. Mario Sergio: May I go in order, Mr. Chairman, since I have a second motion?

Mr. Paul Miller: All right. I'll wait for it.

The Chair (Mr. Michael Prue): I can make it very simple. If you have Bill Pr5 in front of you, under the title "Definition"—it's only a one-page bill. It's on the back.

Mr. Paul Miller: That's all I've got.

The Chair (Mr. Michael Prue): Everybody has the bill before them?

Mr. Paul Miller: There we go.

The Chair (Mr. Michael Prue): You can see what is being proposed is the definition, subsection 1(1). It reads, "In this section," and then goes on to describe "specified property" under that subsection. Instead, it would read, "In this act," and then the definition of "specified property." That's what's being changed. All right?

Mr. Paul Miller: Okay.

The Chair (Mr. Michael Prue): Is there any further discussion on this motion? We have to deal with the motions one at a time.

Mr. Mario Sergio: Will you be voting on a one-to-one basis?

The Chair (Mr. Michael Prue): One to one to one.

Mr. Mario Sergio: That is fine.

The Chair (Mr. Michael Prue): If we've got three or five or seven motions, however many are made, we have to do them one at a time.

Mr. Mario Sergio: Then, with your indulgence, Mr. Chairman, before we go into the voting on the first motion, let me acknowledge the work that has been done by the sponsor, the member for Etobicoke North. We recognize the work and the effort he has put into this bill on behalf of the applicant.

If we are ready to move on motion 1, then I'll proceed with motion 2.

The Chair (Mr. Michael Prue): No, we're not ready yet. We've got to vote. We have a motion before us. The discussion is now concluded. All those in favour of the motion, as put forward? Opposed? That's carried.

You have another motion.

Mr. Mario Sergio: I move that subsection 1(2) of the bill be struck out.

The Chair (Mr. Michael Prue): Do members understand what that does? The bill that you have before you, which reads "Extension of time" and that which goes after "Extension of time" will be struck out. Any other discussion? Seeing no discussion, all those in favour? Opposed? That carries.

You have an additional motion.

Mr. Mario Sergio: The third and final motion.

I move that the bill be amended by adding the following section, and that is section 1.1 of the bill—

Interjection.

The Chair (Mr. Michael Prue): Excuse me, I'm being reminded that I have to take this in order. This is unusual. This doesn't happen in this committee very often. Now that we have completed section 1, I have to ask the question: Shall section 1, as amended by the two motions, carry? Carried.

Now we have a new section. Please proceed.

Mr. Mario Sergio: I move that the bill be amended by adding the following section:

"Application to court

"Resolution approving extension of time

"1.1(1) The city of Toronto may, not later than 180 days after the day this act receives royal assent, pass a

resolution in support of extending the time within which an application may be made to court under section 46 of the Assessment Act for a determination of whether the classification of the specified property is incorrect for the purposes of the 1994 to 2000 taxation years.

“Extension of time

“(2) If the city of Toronto passes a resolution under subsection (1), the last day for applying to court under section 46 of the Assessment Act for a determination of whether the classification of the specified property is incorrect for the purposes of the 1994 to 2000 taxation years is the day that is 90 days after the day the resolution is passed.”

The Chair (Mr. Michael Prue): Discussion or questions?

Mr. Paul Miller: The gist of this is that you’re extending the time to apply six years, 1994 to 2000, plus 90 days?

Mr. Mario Sergio: Well, 180 days, and then there are 90 days from the day that the resolution is passed for them to apply in court.

Mr. Paul Miller: So we’re exempting the six years and we’re adding a 90-day time to apply to the courts.

Mr. Mario Sergio: Yes, provided that they go through the city of Toronto, as well.

The Chair (Mr. Michael Prue): Any other discussion or explanation? Shall the motion carry? Carried.

Shall section 1.1, as amended, carry? Carried.

Shall section 2 carry? Carried.

Shall section 3 carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill, as amended, carry? Carried.

Shall I report the bill, as amended, to the House? Carried.

There being no other matters before this committee, we stand adjourned.

The committee adjourned at 1029.

CONTENTS

Wednesday 30 April 2008

Madresa Ashraful Uloom Act, 2008, Bill Pr5, Mr. Qaadri	T-27
Mr. Shafiq Qaadri, MPP	
Mr. David Fleet	
Ms. Giuliana Carbone	

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Mr. Gerry Martiniuk (Cambridge PC)

Mr. Paul Miller (Hamilton East–Stoney Creek / Hamilton-Est–Stoney Creek ND)

Mr. Bill Murdoch (Bruce–Grey–Owen Sound PC)

Mr. Michael Prue (Beaches–East York ND)

Mr. Tony Ruprecht (Davenport L)

Mr. Mario Sergio (York West / York-Ouest L)

Also taking part / Autres participants et participantes

Mr. Shafiq Qaadri (Etobicoke North / Etobicoke-Nord L)

Clerk / Greffière

Ms. Sylwia Przezdziecki

Staff / Personnel

Ms. Susan Klein, legislative counsel

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ISSN 1180-4319

**Legislative Assembly
of Ontario**

First Session, 39th Parliament

**Official Report
of Debates
(Hansard)**

Wednesday 18 June 2008

**Standing Committee on
Regulations and Private Bills**

Chair: Michael Prue
Clerk: Sylwia Przezdziecki

**Assemblée législative
de l'Ontario**

Première session, 39^e législature

**Journal
des débats
(Hansard)**

Mercredi 18 Juin 2008

**Comité permanent des
règlements et des projets
de loi d'intérêt privé**

Président : Michael Prue
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Published by the Legislative Assembly of Ontario



Service du Journal des débats et d'interprétation
Salle 500, aile ouest, Édifice du Parlement
111, rue Wellesley ouest, Queen's Park
Toronto ON M7A 1A2
Téléphone, 416-325-7400; télécopieur, 416-325-7430
Publié par l'Assemblée législative de l'Ontario

LEGISLATIVE ASSEMBLY OF ONTARIO

**STANDING COMMITTEE
ON REGULATIONS
AND PRIVATE BILLS**

Wednesday 18 June 2008

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

**COMITÉ PERMANENT DES
RÈGLEMENTS ET DES PROJETS DE LOI
D'INTÉRÊT PRIVÉ**

Mercredi 18 Juin 2008

The committee met at 0901 in room 228.

2029652 ONTARIO LTD. ACT, 2008

Consideration of Bill Pr9, An Act to revive 2029652 Ontario Ltd.

The Vice-Chair (Mr. Paul Miller): I believe we have a quorum and we'll call this meeting to order.

The next order of business will be Bill Pr9, and the sponsor is Ms. Horwath. Would you please come forward with the applicant? Ms. Horwath, could you please introduce the applicant?

Ms. Andrea Horwath: Yes. To my far left is Mr. Yuliang Xie. I don't know who he has with him, but I'll leave that to him for his introduction. So I guess I'll leave it at that, Mr. Chair.

The Vice-Chair (Mr. Paul Miller): Does the sponsor have any comments?

Ms. Andrea Horwath: Sure. This is a fairly routine matter, as the committee will know, in regard to bringing back a corporation that was dissolved without property having been appropriately dealt with. So I leave it to the applicants to explain their situation and take any questions. Thank you very much, members of the committee and Mr. Chairman.

The Vice-Chair (Mr. Paul Miller): Would the applicants please explain their situation?

Ms. Ting Xie: My name is Ting. I am the daughter of the applicant.

The Vice-Chair (Mr. Paul Miller): Could you please speak up?

Ms. Ting Xie: Sorry. You must be very confused why an applicant dissolved the corporation before selling the business. The reason is, the business has been running very slow. The applicant tried to sell it for years, but cannot find any buyers. On the other hand, the applicant has to pay thousands of dollars to hire an accountant to fill out the tax return form every year if the business is running as a corporation. The applicant does not know the law about dissolution of the corporation very well. The applicant thinks that the business and their property are the applicant's because the applicant is the president of the corporation. The applicant went to city hall in Hamilton showing a lady in the building and licensing department their property transfer, asking for help to transfer the property from the company's name to the

applicant's name. She told the applicant that they would do it after the dissolution of the corporation.

The Vice-Chair (Mr. Paul Miller): Okay. Is there anyone else in the room—any interested parties? Seeing none, I would move on to the parliamentary assistant, Mr. Sergio, for any comments.

Mr. Mario Sergio: Thank you, Mr. Chairman. First of all, I would like to thank Ms. Horwath for bringing this bill forward. The bill has been reviewed by the various ministries and the public guardian and trustee and government services, as well as the Minister of Finance, and they have no problem with the bill. So I don't have a problem with it, and there's nothing else to say with respect to that.

The Vice-Chair (Mr. Paul Miller): Thank you, Mr. Sergio. Are there any questions from other committee members?

Seeing none, I guess we're ready to vote. This is Bill Pr9, An Act to revive 2029652 Ontario Ltd.

Shall section 1, as amended, carry? Carried.

Shall section 2 carry? Carried.

Shall section 3, the short title, carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? Carried.

Ms. Andrea Horwath: Thank you very much, committee members and Mr. Chairman. I appreciate it.

The Vice-Chair (Mr. Paul Miller): You're welcome.

2076467 ONTARIO INC. ACT, 2008

Consideration of Bill Pr13, An Act to revive 2076467 Ontario Inc.

The Vice-Chair (Mr. Paul Miller): Due to the fact that the second applicant is stuck in traffic and will be here shortly, we're going to move on to the third item, and that would be Bill Pr13. Would the sponsor of this bill and the applicant please come forward? Mr. Lalonde, you're the sponsor?

Mr. Jean-Marc Lalonde: Yes.

The Vice-Chair (Mr. Paul Miller): Would you like to introduce the applicant, please?

Mr. Jean-Marc Lalonde: I'm pleased to introduce Ms. Helena Miller, who is representing the applicant, Mr. Carl Napert. Mr. Carl Napert is asking to revive the cor-

poration, 2076467 Ontario Inc., and I'll pass on the explanation to Ms. Miller.

The Vice-Chair (Mr. Paul Miller): Ms. Miller, your comments, please.

Ms. Helena Miller: Good morning. The corporation was incorporated on July 6, 2005. It subsequently filed an initial notice that's required under the Corporations Information Act. Inadvertently, the notice failed to report a director being on the board of the corporation. Pursuant to the Ontario Business Corporations Act, the corporation charter was cancelled for failure to have the requisite number of directors on the board. The corporation has continued to carry on business since incorporation date, and it requires the revival of the corporation to continue to do so.

The Vice-Chair (Mr. Paul Miller): Any other interested parties in this application? Seeing none, we'll move on to the parliamentary assistant, Mr. Sergio, for comments.

Mr. Mario Sergio: Again, I want to recognize and appreciate the efforts by the sponsor, Jean-Marc Lalonde. As well, this has been reviewed by the relevant ministries, including the Ministry of Municipal Affairs and Housing, the Attorney General and the Ministry of Government and Consumer Services. There is no problem that they can see with the bill as proposed. Therefore, I see no problem with the bill proceeding.

The Vice-Chair (Mr. Paul Miller): Thank you, Mr. Sergio. Are there any other comments from any committee members?

Seeing none, I guess we're ready to vote. This would be Bill Pr13.

Shall section 1 carry? Carried.

Shall section 2 carry? Carried.

Shall section 3 carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? Carried.

Thank you very much. That's done.

Ms. Helena Miller: Thank you.

Mr. Jean-Marc Lalonde: Thank you, Mr. Chairman.

The Vice-Chair (Mr. Paul Miller): You're welcome. I guess we're going to take a 10-minute break and allow the second applicant to make their way here. If you want to grab a coffee or anything, feel free.

The committee recessed from 0909 to 0915.

EUGERRY INVESTMENTS LIMITED ACT, 2008

Consideration of Bill Pr11, An Act to revive Eugerry Investments Limited.

The Vice-Chair (Mr. Paul Miller): I call this meeting back to order. For the information of the committee, we made verbal contact with the applicant, who is stuck in traffic. The applicant is comfortable with Ms. Horwath going ahead with it without his being here, if that's okay with the committee. We looked at the rules, and as long as you've made one-on-one contact with the applicant, then it seems to be in order. Is that okay with the committee? Everybody's fine.

This next business is Bill Pr11, An Act to revive Eugerry Investments Limited. Ms. Horwath is the presenter and the sponsor.

Ms. Andrea Horwath: Members of the committee, I appreciate your assistance with this matter. We all know what the QEW gets like on some days.

It's Eugerry Investments. Again, it's a simple matter of the corporation having been dissolved prior to a property being dealt with, so it's a matter of reviving this corporation in order to deal with the property, which is kind of stuck without having this done. I ask the committee to consider supporting this bill and look forward to any questions.

The Vice-Chair (Mr. Paul Miller): If there are any interested parties on this application, please come forward.

Seeing none, we will now move on to the parliamentary assistant, Mr. Sergio, for comments from the government.

Mr. Mario Sergio: The Ministry of Finance has reviewed the application and has consented to the merit of the application. The Public Guardian and Trustee as well has reviewed the application, and there is no concern. The Ministry of Government Services has no concern with this act. As a matter of fact, they have already notified the applicant in this respect. So, there being no concern from any of our departments, I have no difficulty in moving the bill ahead.

The Vice-Chair (Mr. Paul Miller): Now I will call for questions from any other committee members who have any concerns.

Seeing none, I assume we're ready to vote.

Shall section 1 carry? Carried.

Section 2? Carried.

Section 3? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? Carried.

Thank you for your co-operation, and have a good day. We're adjourned.

The committee adjourned at 0917.

CONTENTS

Wednesday 18 June 2008

2029652 Ontario Ltd. Act, 2008 , Bill Pr9, <i>Ms. Horwath</i>	T-33
Ms. Andrea Horwath, MPP	
Ms. Ting Xie	
2076467 Ontario Inc. Act, 2008 , Bill Pr13, <i>Mr. Lalonde</i>	T-33
Mr. Jean-Marc Lalonde, MPP	
Ms. Helena Miller	
Eugerry Investments Limited Act, 2008 , Bill Pr11, <i>Ms. Horwath</i>	T-34
Ms. Andrea Horwath, MPP	

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ISSN 1180-4319

Legislative Assembly of Ontario

First Session, 39th Parliament

Official Report of Debates (Hansard)

Wednesday 8 October 2008

Standing Committee on
Regulations and Private Bills

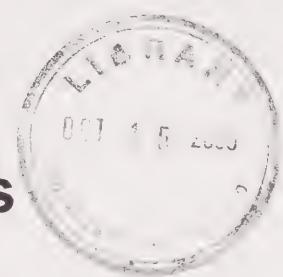
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Première session, 39^e législature

Journal des débats (Hansard)

Mercredi 8 octobre 2008

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Service du Journal des débats et d'interprétation
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Téléphone, 416-325-7400; télécopieur, 416-325-7430
Publié par l'Assemblée législative de l'Ontario

LEGISLATIVE ASSEMBLY OF ONTARIO

**STANDING COMMITTEE
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Wednesday 8 October 2008

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

**COMITÉ PERMANENT DES
RÈGLEMENTS ET DES PROJETS DE LOI
D'INTÉRÊT PRIVÉ**

Mercredi 8 octobre 2008

The committee met at 0859 in room 228.

1068080 ONTARIO LIMITED ACT, 2008

Consideration of Bill Pr14, An Act to revive 1068080 Ontario Limited.

The Chair (Mr. Michael Prue): We'll call the meeting to order. I'd like to call Bill Pr14, An Act to revive 1068080 Ontario Limited, and would call forward—they're already here. Thank you, Mr. Martiniuk and others. Could you please introduce yourselves for the purposes of Hansard?

Mr. Gerry Martiniuk: I'm Gerry Martiniuk, the member for Cambridge, on behalf of the applicants, Pasquale Giglio and Bob Nahiddi, who represent the defunct corporation.

In this case, if I may, the corporation, which is a numbered company, carried on an active business and still does. A notice was sent out that the proper number of directors was not appointed in order to fill all the vacancies of the board of directors. Unfortunately, that notice went astray and nothing was done. Therefore, the corporation was then terminated and its assets escheat to the crown. This corporation is an active corporation. It is still carrying on business. That's the present situation.

The Chair (Mr. Michael Prue): Any further discussion from the applicants?

Mr. Pasquale Giglio: Just to add to the comments—

The Chair (Mr. Michael Prue): First of all, please introduce yourself so we have the right name.

Mr. Pasquale Giglio: I'm Pasquale Giglio. I've been the director of the numbered company since 1994, when it was incorporated.

We've been carrying on business there since that time with the recent notice, not knowing that we've had important filing deficiencies. Once we were aware of it, it was too late. We took steps to try to get back on track, and this is where we are.

The company has been operating at the same location. We've had no major issues with PST, GST or corporate taxes. Most of our business is referral, and this is why it's important to reinstate the company. It would really hurt us if we had to start over again, especially with the banks and the business environment out there. It's very competitive. The family has a lot at stake with this numbered company.

The Chair (Mr. Michael Prue): Any further discussion?

Mr. Bob Nahiddi: Everything seems to be summarized quite well, actually.

The Chair (Mr. Michael Prue): Since you said something, though, could you please say your name?

Mr. Bob Nahiddi: I'm Bob Nahiddi.

The Chair (Mr. Michael Prue): Okay. Everything here is satisfied. Are there any other interested parties in this matter? Anybody else in the audience? Anybody else interested in the matter, to say anything?

Seeing none, parliamentary assistant, are there any comments from the government?

Mr. Mario Sergio: I would assume that Mr. Martiniuk is in support of the bill?

Mr. Gerry Martiniuk: Yes, of course.

Mr. Mario Sergio: The bill has been reviewed by the Attorney General and the Minister of Finance as well as the Minister of Municipal Affairs and Housing. They have no problem with the bill, so we're ready to move support of the bill.

The Chair (Mr. Michael Prue): Are there any questions from committee members?

Mr. Paul Miller: I just wondered if I could ask, were there any lawyers involved in this situation? On your board, did you report to any lawyers? They usually receive the information from the ministry on regulations. You said the paperwork went astray. Was that because of the lawyer's office?

Mr. Pasquale Giglio: No. The mailing address—notices were sent to our principal residence. That's my understanding. No notification was sent to the lawyer. We did have a lawyer from time to time, but we weren't notified by the law firm in any way.

Mr. Paul Miller: So basically, it was just an oversight on the director's part by not following through with the notification.

Mr. Pasquale Giglio: We didn't dot our i's and cross our t's, and we didn't secure our mail properly.

Mr. Paul Miller: Maybe you guys ran out of stamps or something. No, I hear you. That happens. We've had a lot of that in the last couple of years. I don't have a problem with it.

The Chair (Mr. Michael Prue): Further questions before I go back to the applicant or the sponsor? Any further questions? Back to Mr. Martiniuk.

Mr. Gerry Martiniuk: I forgot the most important part. The applicant is a constituent of my seatmate, colleague and friend, Peter Shurman. I'm appearing on his behalf this morning.

The Chair (Mr. Michael Prue): Are the members ready to vote?

Mr. Mario Sergio: Yes.

The Chair (Mr. Michael Prue): Shall section 1 carry? Carried.

Shall section 2 carry? Carried.

Shall section 3 carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? Carried.

DRAFT REPORT ON REGULATIONS

The Chair (Mr. Michael Prue): All right, members of the committee, the next item is consideration of the draft report on regulations. I would ask the staff to come forward. We're going to have a discussion on this report. I don't know who is taking the lead on this, but if one of you would be so kind—Andrew? Okay. Lead us through the report and your recommendations.

Mr. Andrew McNaught: I'm Andrew McNaught of the legislative library's research and information services branch. With me here today is Marta Kennedy of our office. We are here to present the committee's draft report on regulations made in 2007. I'll begin with an overview on the committee's role and our role in this review process, and then Marta will take you through the report, since she prepared it.

So just by way of background, the Standing Committee on Regulations and Private Bills is required under section 33 of the Legislation Act as well as under standing order 107(i) to conduct a review of regulations made under Ontario statutes each year. For the purposes of this review, the researchers/lawyers of the library act as counsel to the committee. As you know, unlike bills, regulations are not debated in the House, so the purpose of the regulations review is to provide a sort of independent oversight of the way in which regulations are being made.

Mr. Tony Ruprecht: Mr. Chair.

The Chair (Mr. Michael Prue): Is this a point of order?

Mr. Tony Ruprecht: It is. Before we get into the substance of all of this, can I ask you a question? How was this distributed? Because our caucus office never got a copy of it. I'm wondering before we get into this—

The Chair (Mr. Michael Prue): Well, that's actually a point of privilege, but it's well taken. Did people not have a copy of this?

Mr. Mario Sergio: I just got it this morning.

Mr. Tony Ruprecht: Our caucus office did not get a copy of it. She was surprised today when she saw the report. So I'm just wondering whether we're prepared

even to make any recommendations or provide any thoughts as to the validity of this report.

The Chair (Mr. Michael Prue): If I could draw the member's attention to the front page, it is stamped in red letters: "Confidential: For committee use only." It was intended for committee use, not caucus. I don't know the legality of that.

Mr. Andrew McNaught: It should have been distributed to members—

The Chair (Mr. Michael Prue): Yes, it has been distributed to members. Does every member have a copy of this?

Mr. Tony Ruprecht: Yes.

The Chair (Mr. Michael Prue): I don't know the legality of why—

Mr. Mario Sergio: I got mine this morning. I don't question that the report was mailed, but I didn't get it. I got it this morning. I wonder, since I have the floor, Mr. Chairman, would it be so difficult to defer it perhaps until next meeting?

The Chair (Mr. Michael Prue): I understand that at the end there were to be some motions to receive, but it is possible, and I would suggest, since we have some time, that research take us through. If you want to leave the motion to the next meeting, we can do that, but it seems a shame to have research staff come here and not—

Mr. Mario Sergio: I can appreciate that. We can go through with the research presentation.

The Chair (Mr. Michael Prue): If there is a desire from committee at the end—

Mr. Mario Sergio: To proceed.

The Chair (Mr. Michael Prue): —to proceed, we can proceed. If there is a desire to hold down the motion until the next meeting, we can do that as well. Okay? Please proceed.

0910

Mr. Andrew McNaught: Just to go back a bit, in conducting this review of the regulations, the committee is asked to ensure that regulations have been made in accordance with nine guidelines that are set out in standing order 107(i). It should be stressed that the guidelines are simply technical rules that should be followed when regulations are being made. They do not authorize the committee to look at the policy underlying the regulation itself. So, for example, guideline 2 provides that there should be statutory authority for a regulation before it's made.

The procedure that we follow is as follows:

We will review the regulations on behalf of the committee and identify potential violations of the guidelines. We then write letters setting out our concerns to the various legal branches of the ministries that are responsible for those regulations. If we feel that a ministry's response does not adequately address our concerns, we would include a discussion of that regulation in our draft report to the committee.

Once the committee has the draft report, you have basically three options:

(1) You can make a recommendation to the ministry responsible for the regulation.

(2) You could simply include a discussion of the regulation and acknowledge the ministry's response.

(3) You could simply decide to not include the regulation in the report at all.

Once the report is finalized, of course, the final report is tabled in the Legislature.

That's the basic outline of the review procedure, and I'll turn it over now to Marta, who prepared the draft report that you have today.

Ms. Marta Kennedy: Thank you. As Mr. McNaught said, my name is Marta Kennedy, and I'm also a research officer and lawyer with the Legislative Library.

What I'd like to do is, first, take you through the way the report is set up, so that you have a sense of what's in the report, and then actually go through the report itself.

You should have received a cover memo, sent out last week, which gives you a brief overview of what's involved in the report. But just skipping past that, the report starts off with a number of statistics. I'm not going to go into those at all. There's nothing unusual or different from previous reports, really. Some additional statistics have been added, but there's nothing particularly unusual there.

The next section of the report, the meat of the report, is "Regulations Reported." That's where there's an actual discussion of the regulations that possibly violate the committee's guidelines.

The following section of the report discusses two recent cases that were decided by the courts, in which the regulations were affected and in which the regulations at the time had not been changed.

The final section of the report is some appendices that give you some further information about ministries and the number of regulations that the various ministries have filed.

If we go through to page 5 of the report, the "Regulations Reported" section, as Andrew said, we wrote to a number of ministries, making inquiries about 25 regulations this year. When we received the responses, for 14 of the regulations that we had asked about, we were satisfied with the response. Those regulations are not included in the report.

There were four regulations for which the ministry responded and agreed with the points we had raised and have said that they will make certain changes to the regulations. Those regulations are included in the report.

There are five regulations where we believe that the ministry has not adequately addressed the concerns we have raised about the regulations. Those regulations are also in the report and I will flag those as we get to them.

What I'd like to do first is just quickly go over the four guidelines we've used that appear to have been violated under these regulations that we are reporting.

We're going to be talking about guideline number 2, which is, "Regulations should be in strict accord with the statute conferring of power." What that means is that there has to be statutory authority to make the regulation.

If the act says that you can make a regulation about drivers' licences, you can't go off and make a regulation about licence plates, for example.

The next guideline, number 3: "Regulations should be expressed in precise and unambiguous language." That's the one we call the clarity-of-language guideline. It's just that regulations should be in language that people understand and it should be clear what is required of a person.

Guideline number 5: "Regulations should not exclude the jurisdiction of the courts." That's about appeals. Say, for example, a person applies for a licence and they're denied the licence. In certain circumstances, the person can appeal that decision to a court. However, it's possible through a statute to say, "There is no appeal. A decision of the minister," say, "is final." You can do that by statute, but this guideline prohibits that happening in a regulation. If you want to do it, you have to do it by statute.

Guideline number 9 says, "General powers should not be used to establish a judicial tribunal or an administrative tribunal." That's about setting up a court or a tribunal like the workers' compensation tribunal by regulation. Again, you can do that, but you have to do it in the act and not by regulation.

I'll start with the regulation made under the Ontario College of Teachers Act, 1996. This is one of the regulations where there is a dispute with the ministry about whether or not the regulation violates the committee's guidelines. This is being reported under the statutory authority guideline. The question is, is there authority in the act to make these regulations?

This regulation is about the Ontario College of Teachers and their council. We're looking at the sections of the regulation that deal with members of a council of the Ontario College of Teachers. More specifically, we're looking at the sections that say what sanctions can be imposed on members of the council who, say, don't come to meetings. The regulations say that a member can either be disqualified from council or suspended from council. The regulation-making authority in the act says that you can make regulations in which a member is disqualified. It seems that the regulation-making authority and the regulation don't seem to be in compliance.

We wrote to the ministry about that. They responded and they said that they believe that they have the ability to make regulations both disqualifying a person and suspending a person. We've provided a recommendation on page 7, recommendation number 1, which is that the Ministry of Education amend their regulations to remove that reference to suspension.

The Chair (Mr. Michael Prue): Since there are a number of bills and a number of questions, let's stop there and see if there are any questions on this particular aspect.

Mr. Mario Sergio: Maybe some feelings here, Mr. Chairman. Is that going through every aspect of the report here?

The Chair (Mr. Michael Prue): Yes, they will be doing them all, but I'm trying to break them up. There's

no sense in them talking about all eight items and then asking if there are questions. Let's just deal with one item at a time.

Mr. Mario Sergio: That's the point that I was trying to make. Perhaps we should defer the whole thing until the next meeting because we have not been briefed on this. I know that staff is here, but I don't think we are prepared to go into questions on the whole report today.

The Chair (Mr. Michael Prue): May I ask why? This is the function of the committee, to hear these regulations.

Mr. Mario Sergio: I appreciate that. I haven't reviewed the bill. I haven't reviewed the report here. If the people are ready to deal with it—otherwise, we defer it.

0920

The Chair (Mr. Michael Prue): I am also reminded that the report is confidential until it is tabled in the House. So I don't know what instructions you're going to seek and from whom.

Mr. Mario Sergio: It's a good point. Is it strictly for members of the committee to see the material?

The Chair (Mr. Michael Prue): Yes, it's strictly for members of the committee. If the committee wants to go out and seek instructions after having heard what is being discussed, we don't have to vote on it today. I understand there may be some trepidation.

Mr. Paul Miller: I don't think this is a major problem. I think what's going on here is that they've reviewed the ministries and their regulations, and, if I understand, you're trying to determine which are regulations that fall under the statutes—which should go to statutes; some that should stay as regulations. You're basically defining which category you have concerns about the direction the ministry's going, because it's sending mixed messages from the ministry and statutes are being mixed up with regulations. Is that your understanding?

Ms. Marta Kennedy: What we're looking at is whether or not they have done by regulation only what they're allowed to do.

Mr. Paul Miller: The ministry?

Ms. Marta Kennedy: The ministry.

Mr. Paul Miller: So your concern is that they've exceeded their authority in some areas.

Ms. Marta Kennedy: Yes.

Mr. Paul Miller: So this is simply a discussion to determine for which parts of the act there's been an oversight or they've gone above their ability to control that situation.

Ms. Marta Kennedy: Or which parts of the regulations exceed their authority.

Mr. Paul Miller: Exactly. Basically, it's just a little housework here. We're cleaning up to make sure that the ministry follows their guidelines and regulations are in the place they should be. Is that your understanding?

Ms. Marta Kennedy: Yes.

Mr. Paul Miller: So it's not any major changes to the ministry or to any bills coming forward, other than the bill to deal with the situation we have.

Interjection.

The Chair (Mr. Michael Prue): I think I'm going to let her answer the question first. Marta, please.

Ms. Marta Kennedy: It's not a challenge to any statutes or bills. The question is whether or not certain provisions of regulations are valid. They may not be valid if they are outside of the authority given by the statute.

Mr. Paul Miller: So, basically, like I said, and I'll reiterate, it's housekeeping, to make sure the ministry is aware of their guidelines and where they have exceeded their guidelines and they have to pull their horns in on certain areas where it's not their jurisdiction. Would that be a fair estimate?

Ms. Marta Kennedy: Where they've exceeded the authority that had been given to them by the statute.

Mr. Paul Miller: Correct. So I don't see what the threat here is. We're simply reviewing it at this point. If you're concerned about it, we don't have to vote on it. Actually, I kind of want to know more about this, and how better than to have the people here who are—so you've obviously had complaints that have been sent in about determining what's a statute and what's a regulation; right? Is this why you're acting on this?

Ms. Marta Kennedy: No. This is—

Interjections.

The Chair (Mr. Michael Prue): Wait a minute.

Interjection.

The Chair (Mr. Michael Prue): I have a couple of speakers, but just before I do that, nothing changes until we report to the House—nothing. We're bringing to the attention of the House some things that may not be correct. I understand the trepidation that some government members may have in terms of their respective ministries and what's going to happen, but nothing is going to happen today if you don't want to vote today. But I would like to hear the discussion through, because this committee is responsible for hearing where there may be possible inconsistencies in regulatory authority through various ministries and to correct those, because if you don't do that, the courts will.

Having said that, I have down on the list Mr. Ruprecht first and then the independent member. You are a member of the committee? Excellent.

Mr. Bill Murdoch: I always was. I don't know—

The Chair (Mr. Michael Prue): Okay, terrific. I guess so.

Interjections.

The Chair (Mr. Michael Prue): I guess he could—and then I have the parliamentary assistant. So, in that order, Mr. Ruprecht.

Mr. Tony Ruprecht: I appreciate what Mr. Miller has been saying. The whole issue is if it's housekeeping or not. But the major point is this: If the parliamentary assistant, who, on our side at least, has got the lead on this, is not prepared, if he only received this information a few days ago or this morning in the mail, then it's incumbent upon us at least to see that there may be some changes, and we should postpone it as he's requesting.

The Chair (Mr. Michael Prue): We're not making any decision today.

Mr. Tony Ruprecht: It doesn't matter, Mr. Chair. The parliamentary assistant, who's got carriage of this, should be prepared, in any circumstance, to look at the details of this and should be prepared ahead of time so that he can make his comments to the committee.

The Chair (Mr. Michael Prue): Well, when it comes to him, if he wants to make a motion to adjourn the meeting, that's within any member's purview. They can do it.

Mr. Bill Murdoch: Chair, I'm just wondering: Do the ministries know about this, each ministry it may affect?

Ms. Marta Kennedy: Once we found a regulation which appeared to violate the committee's guidelines, we wrote letters to the ministries and said to them, "This appears to violate the committee's guidelines. Would you please comment?" We received back their letters. In some cases, their letters satisfied our concerns, and the matter has been dropped. In other cases, it appears that there still may be a violation of the guidelines, and those are the regulations that are being discussed in this report.

Mr. Bill Murdoch: I just wanted to know where they were, because this might be a long, drawn-out thing before we're all done. But anyway, that's fine. We've got to discuss it and start, whatever.

The Chair (Mr. Michael Prue): Before I recognize the parliamentary assistant, I just want to remind members that it is to this committee that all regulations stand permanently referred. That is our job. All regulations that are made by every government ministry are permanently referred to this committee at all times.

Now, the parliamentary assistant.

Mr. Mario Sergio: We have no problem with that, Mr. Chairman. You are saying either don't vote on it, or just receive it. I'd like to know, Mr. Chairman, since this is fresh from staff, is there any area within the report, any changes that require the action or recommendation of this committee?

Ms. Marta Kennedy: I'm sorry, any change that requires the action of the committee?

Mr. Mario Sergio: Absolutely. My point is this: I don't think it is appropriate to have such a report and then say we just receive it or no vote. What area within the report requires the attention and the vote—any changes to this particular content of the regulations here, from this committee?

Mr. Paul Miller: On a point of order: I think they actually explained that quite nicely. They said there were four that are questionable and five that they have concerns about. The other whatever number it was, they're satisfied with. Really, the four are negotiable, and the five they're concerned about.

The Chair (Mr. Michael Prue): Okay, it's not a point of order, but you made your point. A point of order is that he's asking the wrong question.

Mr. Mario Sergio: Mr. Chairman, I guess what I'm getting at—

The Chair (Mr. Michael Prue): Okay, what are you getting at?

Mr. Mario Sergio: There are some areas in some of the regulations that require the attention of this committee. I don't think it is fair to just say, "We're going to receive it and send it on." I think there is some action required by this committee. Am I correct or not with that?

Ms. Marta Kennedy: There are a number of recommendations in the report. There are several recommendations there in which there are options for the committee to choose between this recommendation or that recommendation. As Andrew McNaught said as well, the committee could decide to remove certain portions of the report or not make a recommendation at all and simply make an observation.

Mr. Mario Sergio: Okay. Mr. Chairman, I'm ready to hear the staff presentation here.

The Chair (Mr. Michael Prue): Okay, fine. I have Mr. Martiniuk and then Mr. Balkissoon.

Mr. Gerry Martiniuk: I don't consider these recommendations housekeeping. This is the never-ending battle between the Legislature and the executive. The executive have encroached, possibly—we don't know—on the jurisdiction of the Legislature. I think it's incumbent on this committee to hear both sides, to hear not only from counsel but also from the ministry and their justification for the actions they've taken. I would like to have them both. If I listen to counsel's description at this stage and then two weeks later I hear from the ministry, I may not remember everything that might be relevant.

So I think it's a very important matter. It's not a matter of housekeeping; it's a matter of ensuring that the Legislature and the executive keep to their jurisdictions, and I would therefore like to hear from both parties.

0930

The Chair (Mr. Michael Prue): Mr. Balkissoon.

Mr. Bas Balkissoon: I hope somebody can clarify this: I read this extensively, and initially I was a little confused. Now that I'm sitting here and you've explained things, I understand what I'm doing. The recommendation that has come from legislative staff—they're asking me to agree with it or disagree with it, because there's a disagreement between the ministry staff and themselves.

But I want to turn to page 7, just to deal with the first one. It says, "Since the act authorizes regulations regarding disqualification, but not suspension," this is why they're making the recommendation. I'm sitting here saying, "Okay, legislative staff is telling me that's what the act says," but I have no exact transcript from the act to compare to what they're recommending. Without doing my own research, you're telling me to rubber-stamp the recommendation that is coming. I have to take your word for it; you're legal, and you're reviewing it. But do you know what? I'm really not here making a decision then; I'm just here to agree with what you're saying. The only time I will disagree is if I personally think there's a technical issue here that bothers me.

I feel uncomfortable with the way the report was written, because, to be honest with you, until I walked in here—this is the first time I've sat with this committee to

do with regulations, so pardon my inexperience—I really didn't know what I was coming to do until it was explained. Without the actual section of the act that authorizes this regulation, I'm not sure what I'm doing.

The Chair (Mr. Michael Prue): Okay. Just let me take the chair for a minute.

We are the body to which all regulations are sent. It is our job in this committee, every few months, to sit down and look at staff recommendations when they perceive that regulations may not be in accordance with the law. Our job is not to arbitrate between whether the minister or the staff is right. Our job is to receive the report and, if we are satisfied that the staff has made at least a *prima facie* case, forward it to the Legislature for the Legislature's information. It is merely for us to tell the respective ministries that their regulation may not be in accordance with the law and request that they go back and review it. We are not changing the law.

Mr. Bas Balkissoon: But am I not agreeing with the research staff if I accept the recommendation?

The Chair (Mr. Michael Prue): You are suggesting that the research may indicate a problem, and therefore the ministry should look at it.

Mr. Bas Balkissoon: But, Mr. Chair, my point to you is this: I have the staff recommendation and I have the wording of the regulations, but I don't have in front of me the wording of the clause in the act that deals with regulations regarding authorization. So I find it inappropriate for me to pass judgment that the research is correct.

The Chair (Mr. Michael Prue): I would draw your attention to the bottom of page 6, because you were referring to page 7. It starts with the words, "However, the regulation-making authority in the act, s. 40(1) para. 5, refers only to regulations respecting the disqualification of elected members, and not their suspension," and then things flow from that. That's what we're going to do, if we agree with this on this date or the next: We are going to refer it to the Legislature and say, "There may be a problem here, Madam Minister"—in this case it's education. "Review it." That's our job.

Mr. Mike Colle: On a point of order: I would like to call a 15-minute recess.

The Chair (Mr. Michael Prue): I don't think that's a point of order. When it's your turn to speak, I will recognize that. A point of order is not calling a recess.

Mr. Mike Colle: Isn't a motion to recess always in order?

The Chair (Mr. Michael Prue): When it's your turn to speak, you can do it. I have you down right after Mr. Miller. Mr. Miller?

Mr. Paul Miller: The confusion here is mind-boggling. I don't understand. The legislative staff have brought forward some concerns—and I do believe it's housekeeping; I don't agree with the former speaker—to this committee about some of the statutes and where regulations govern statutes and statutes govern regulations. All they're doing is trying to clarify their concerns about these types of situations. We're not making

decisions; we're simply sending it on, saying that we have some concerns about this part of the act that oversees this regulation or vice-versa. All we're doing is passing it on to the ministry to discuss it. We're not making a call. Our recommendation is going there for them to do further studies on this particular thing because, obviously, you don't know; I don't know. We're not quite sure, and we're just saying, "We would like someone to verify it for us." Obviously, the ministry and the legislative staff have to work this out and come back with a final decision.

Mr. Bas Balkissoon: But then why do they need us?

Mr. Paul Miller: They need us because it goes through this committee. It's part of our job to determine regulations and statutes, so I don't understand—what do you mean, "What do they need us for?" That's what this committee's for.

The Chair (Mr. Michael Prue): Mr. Colle.

Mr. Mike Colle: Again, I'd like to call a 15-minute recess.

The Chair (Mr. Michael Prue): I have a motion for a recess for 15 minutes. Is there any discussion on the propriety of that? None? All those in favour of the 15-minute recess? Opposed? Okay, a 15-minute recess.

The committee recessed from 0935 to 0949.

The Chair (Mr. Michael Prue): I call the meeting back to order. All members being present, even though it's only 14 minutes, let's proceed.

I'm given to understand from the parliamentary assistant that there may be a motion that he wishes to make.

Mr. Mario Sergio: Mr. Chairman, it would be a direction by this committee to invite whatever ministry, whatever staff would like to attend, invite them from the Chair, and defer the full report until the next meeting.

The Chair (Mr. Michael Prue): We have a motion of deferral with instruction to the Chair. Is there any discussion on that? Any discussion? Seeing no discussion, all those in favour? Opposed? I think the ayes have it. So this matter will be deferred until the next meeting, which is scheduled for—it's at the call of the Chair. It could be next Wednesday. We'll see. I'll consult with the parliamentary assistant. We'll try for next week. Failing that, we'll go for the week after that.

Mr. Bill Murdoch: Give me a chance to check with my caucus to see if it's all right.

The Chair (Mr. Michael Prue): All right.

Mr. Bill Murdoch: My research is a little low these days too, so—

The Chair (Mr. Michael Prue): Okay. And I'm given to understand—just so it's part of the record—from Ms. Kennedy that there may be some additional minor changes that she will forward post-haste so that all members will have those.

Mr. Mario Sergio: Further changes to this report?

The Chair (Mr. Michael Prue): To this report, because this report was prepared before the recess, so it has been around for quite a while, and there have been some recent very small developments to be added to it.

All right? Just so that that's part of the record and everyone understands.

COMMITTEE BUSINESS

The Chair (Mr. Michael Prue): This brings us down to other business. I ask that on other business we discuss a number of matters.

We have had some bills referred to the committee from private members' public business in the House. There are how many bills?

The Clerk of the Committee (Ms. Sylwia Przedziecki): Two.

The Chair (Mr. Michael Prue): Two bills, one of them being from Mrs. Jeffrey. Is that one of the bills? Yes, that's one of the bills, the other one being from—

The Clerk of the Committee (Ms. Sylwia Przedziecki): Mr. Levac.

The Chair (Mr. Michael Prue): Mr. Levac. It is the committee's prerogative to hear those bills. As the Chair, I'm going to suggest that we hear them: that we schedule time to hear the bills and we make a recommendation to the House, following the procedures, any debate or witnesses who might wish to come forward on the bills, and that we forward them.

Mr. Mario Sergio: May we know what the two bills were and why this particular action is being taken to call the meeting in this—

The Chair (Mr. Michael Prue): Bills are referred to committee so the committee can deal with them and then forward them to the House for third and final reading. Some committees choose to only deal with the bills upon instruction of the government House leader—

Mr. Mario Sergio: But which two bills—

The Chair (Mr. Michael Prue): —and others, but there is no requirement that that be done.

Mr. Mario Sergio: But which two bills were those ones?

The Chair (Mr. Michael Prue): Mrs. Jeffrey's bill involves fire sprinklers, and Mr. Levac's bill is about the Ukrainian Holocaust.

Mr. Mario Sergio: Further, if I hear what you're saying, it's the prerogative of this committee to deal with these bills at this committee?

The Chair (Mr. Michael Prue): Yes.

Mr. Mario Sergio: It is.

The Chair (Mr. Michael Prue): Yes. It is our prerogative to do it. Some committees choose not to do it because they don't want to do it if the government House leader isn't going to call it for third reading. But I think we have an obligation to the members who have referred the bill in good faith to hear it out and to forward it with whatever recommendation we have. Whether it's ever called for third reading is not up to this committee, but up to the government House leader. Okay?

The independent member.

Mr. Bill Murdoch: This is nothing new. We've done this before with private members' bills. Do you need a motion to move that we accept them?

The Chair (Mr. Michael Prue): Well, no. I'm just going to suggest that, unless I hear to the contrary, I intend to schedule them.

Mr. Bill Murdoch: Okay, that's fine, but we've done this before.

The Chair (Mr. Michael Prue): I can speak to Mrs. Jeffrey's now and to Mr. Levac's later, but you might as well, if you're here—this could and should be done in one day, if possible. Do you anticipate that witnesses would be called or can we deal with it simply in committee?

Mrs. Linda Jeffrey: Mr. Chair, can I just speak to your preamble as to bringing this other business forward? It's not an accident that I'm here today. I was aware that you would be raising this issue at this committee. My first thoughts are, hooray, that's great. This is an issue that I care about deeply and have worked on for the last five years. But, on the other hand, as a standing committee Chair myself, I understand the role of a Chair is to help bring issues forward that are referred from the House. We're essentially the traffic managers of legislation that comes before us. But I also understand the role of the subcommittee, and that's the group that I rely on to help do the planning for the committee work that comes before us. That's a process that's part of my role as standing committee Chair, and yours, Mr. Chair.

The Chair (Mr. Michael Prue): Are you suggesting a subcommittee discuss this?

Mrs. Linda Jeffrey: I am saying that I would be much happier if the process worked its way through. I really feel strongly about sprinkler legislation and I want to make sure all three parties feel the way I do and that it goes with the endorsement of all three House party leaders.

I'm not comfortable with bypassing that process. If it goes through the subcommittee and it comes back with that recommendation and all three House leaders are prepared to send it to a hearing, then I'm satisfied that the process has been followed. But this is too important to me to have us bypass the process, so I'm not comfortable with us going and bypassing that process. That's how I feel about my bill being dealt with in that manner.

The Chair (Mr. Michael Prue): If I could ask for the learned opinion of the clerk, I do not believe that we are bound by any House leaders' accord. This is an independent committee.

Interjection.

The Chair (Mr. Michael Prue): Yes. She's referring—the committee may set its own business. Does the committee want to hear these bills or not hear these bills? It's up to the committee. It would be up to the government House leader, in consultation with the House leaders of the two opposition parties, to determine whether or not it comes forward for third reading, but I don't know—are you saying that you don't want the committee to exercise its jurisdiction?

Mrs. Linda Jeffrey: I think what I'm saying is, I believe there's a process in place. Maybe the clerk can correct me if I'm wrong, but it's my understanding that

all three House leaders must agree that a subcommittee can go forward with hearings. That's been the process in the past. I am uncomfortable with us bypassing that process. I think the subcommittee is the one that sets the agenda of the committee.

The Chair (Mr. Michael Prue): I would remind the member—and here's the authority, standing order 109(a): "Standing and select committees shall be severally empowered to examine, inquire into and report from time to time on all such matters as may be referred to them by the House."

The House referred your bill and you suggested this committee. I was there; you suggested this committee. According to the legislative act, we are empowered to examine your bill, to inquire into your bill and to report your bill to the House, which sent it here—not to the House leader and not to the House leaders, but to the House. If you don't want to do that, if the committee says, "We don't want to deal with your bill," I'll take a vote right now and we won't.

Mrs. Linda Jeffrey: With respect, Mr. Chair, if I still have the floor?

The Chair (Mr. Michael Prue): Okay, please.

Mrs. Linda Jeffrey: I would prefer that it went through subcommittee and then returned to this committee. If the subcommittee itself agrees that they want to proceed with this, then I defer to their wisdom on that.

The Chair (Mr. Michael Prue): All right. You are asking for a subcommittee of this committee to determine whether or not it proceeds.

Mrs. Linda Jeffrey: Yes. I want the process to go in its full manner, the way it normally does in other standing committees, because I want to make sure all three parties—I think this has been sprung on some of the members here today. I want them to understand what they're doing.

The Chair (Mr. Michael Prue): All right. I'm not sure who constitutes the subcommittee because I don't think we have ever had a subcommittee meeting of this committee.

Mr. Paul Miller: Yes, we have.

The Chair (Mr. Michael Prue): Have we? And who constitutes the subcommittee?

Mr. Paul Miller: Me.

The Chair (Mr. Michael Prue): Okay. Mr. Miller, Mr. Martiniuk—

Interjection.

Mr. Paul Miller: Mr. Chair, if I get the floor?

Mr. Gerry Martiniuk: No, I have the floor.

The Chair (Mr. Michael Prue): —and Mr. Sergio. Okay.

Mr. Paul Miller: Wait a minute. Who's first?

The Chair (Mr. Michael Prue): Wait a minute. I just want everyone to know the subcommittee is constituted of Mr. Miller, Mr. Martiniuk and Mr. Sergio. Are you making a motion that this be referred to the subcommittee to report back to our next committee meeting?

Mrs. Linda Jeffrey: I think what I'm doing is asking this committee to have that conversation. I'd like to listen to the others first and I'll make a determination after that.

The Chair (Mr. Michael Prue): But I need a motion to debate. If that's your motion—you know, if you've listened to the others and you don't agree with your motion, you're free to vote for it or against it. Are you making that motion?

Mrs. Linda Jeffrey: Yes.

The Chair (Mr. Michael Prue): All right. The motion has been made. Discussion? Mr. Miller.

Mr. Gerry Martiniuk: I'm sorry, Mr. Chair; I believe I would have been recognized first in that I had my hand up first.

The Chair (Mr. Michael Prue): Okay, fine. I apologize, Mr. Martiniuk.

Mr. Paul Miller: All right. I don't care. He can go first. I'm not—

Mr. Gerry Martiniuk: Very shortly, I support that. The proper procedure is not for the Chair to make that decision, but in fact the committee. The procedure under the committee is to use the subcommittee. Their recommendation comes to this committee, and then it's discussed. So I support the motion.

The Chair (Mr. Michael Prue): Mr. Miller.

Mr. Paul Miller: I don't have a problem with the subcommittee. I dealt with that, but I'd just like to tell the member you're not going to get any guarantees that everybody on the subcommittee is going to agree with what your situation is. So I don't know what kind of comfort you're going to get out of it, because if two of the three people agree to send it on, it's going on anyway.

Interjection.

Mr. Paul Miller: Yes. In my situation, there was one person who was against, but the two of us voted to go forward, and Bill 6 not only did not get read, but it was shot down by the government.

I don't think you have to have an agreement with the House leaders to go to subcommittee; they have nothing to do with it. We are an independent body, as a subcommittee, to deal with sending it on to the main committee. We can do it, and I don't have a problem with that, but you seem to be a little insecure; you want some kind of guarantees from the subcommittee or the House leaders that you're moving in the right direction. I don't think you're going to get that if that's what you're looking for.

I'm confused: Why this particular bill? They've got a majority. Usually, a subcommittee is called when we haven't got a chance of its going through. You've got the majority; it would go through—or whatever you want to do.

You brought the bill forward. It's your baby. You've been working on it for five years. So I'm confused as to why you need a subcommittee, but if you want that, it's part of the process. I can't argue process, if you want it. I don't know what you're going to get out of it.

The Chair (Mr. Michael Prue): Okay. Any other discussion on whether or not to have the subcommittee meet?

Mr. Mario Sergio: Mr. Chairman, for clarification: The motion is on the floor that we send it for review by the subcommittee of this committee?

The Chair (Mr. Michael Prue): Yes. That's the motion.

Mr. Mario Sergio: That's the motion?

The Chair (Mr. Michael Prue): The motion is that the subcommittee meet and report back to this committee on recommendations on hearing these two bills.

Mr. Mario Sergio: Okay. We're ready to vote.

The Chair (Mr. Michael Prue): Okay? All right, we have a motion. Everybody clearly understands the motion. All those in favour of the motion? All those

opposed? It's a tie, so I'm going to vote in favour of the motion and have the subcommittee report back at the next meeting.

All right, is there any other business for today?

Mr. Mario Sergio: No, please. Not for today.

The Chair (Mr. Michael Prue): Not for today? I thank all the parties who showed up today in such an argumentative mood. The meeting is adjourned until the call of the Chair either a week or two weeks from today.

The committee adjourned at 1002.

CONTENTS

Wednesday 8 October 2008

1068080 Ontario Limited Act, 2008, Bill Pr14, Mr. Shurman	T-35
Mr. Gerry Martiniuk, MPP	
Mr. Pasquale Giglio	
Mr. Bob Nahiddi	
Draft report on regulations.....	T-36
Committee business.....	T-41

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T-8

T-8

ISSN 1180-4319

Legislative Assembly of Ontario

First Session, 39th Parliament

Official Report of Debates (Hansard)

Wednesday 22 October 2008

Standing Committee on
Regulations and Private Bills

Chair: Michael Prue
Clerk: Sylwia Przedziecki

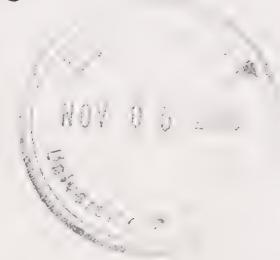
Assemblée législative de l'Ontario

Première session, 39^e législature

Journal des débats (Hansard)

Mercredi 22 octobre 2008

Comité permanent des
règlements et des projets
de loi d'intérêt privé



Président : Michael Prue
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Room 500, West Wing, Legislative Building
111 Wellesley Street West, Queen's Park
Toronto ON M7A 1A2
Telephone 416-325-7400; fax 416-325-7430
Published by the Legislative Assembly of Ontario



Service du Journal des débats et d'interprétation
Salle 500, aile ouest, Édifice du Parlement
111, rue Wellesley ouest, Queen's Park
Toronto ON M7A 1A2
Téléphone, 416-325-7400; télécopieur, 416-325-7430
Publié par l'Assemblée législative de l'Ontario

LEGISLATIVE ASSEMBLY OF ONTARIO

**STANDING COMMITTEE
ON REGULATIONS
AND PRIVATE BILLS**

Wednesday 22 October 2008

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

**COMITÉ PERMANENT DES
RÈGLEMENTS ET DES PROJETS DE LOI
D'INTÉRÊT PRIVÉ**

Mercredi 22 octobre 2008

The committee met at 0900 in room 151.

SUBCOMMITTEE REPORT

The Chair (Mr. Michael Prue): I call the meeting of the Standing Committee on Regulations and Private Bills to order.

We have a number of things we must do before we proceed into the meat of the agenda. The first one is the subcommittee report, and I think members have before them a copy of the subcommittee report. I would appreciate it if someone who was on the subcommittee—you were there. I would ask Mr. Miller to read the subcommittee report.

Mr. Paul Miller: The subcommittee met on October 15, 2008, to consider the method of proceeding on Bill 72, An Act to amend the Building Code Act, 1992, the City of Toronto Act, 2006 and the Municipal Act, 2001 with respect to fire sprinkler systems in new residential buildings and recommends the following:

That the committee not schedule consideration of the bill at this time.

The Chair (Mr. Michael Prue): That's the motion that's before us. Any discussion? All those in favour? Opposed? That carries.

REGISTRAR OF REGULATIONS BRIEFING

The Chair (Mr. Michael Prue): The next item is the presentation by the registrar of regulations. Joanne Gottheil is here, and the floor is yours.

Ms. Joanne Gottheil: Good morning. I'm the registrar of regulations for the province of Ontario. I've been invited to make a brief presentation explaining what a regulation is, how it's related to a statute, how a regulation is made and filed and what the role of the registrar of regulations is.

As you all know, the Legislature enacts statutes. Most statutes contain a section that says something like, "The Lieutenant Governor in Council may make regulations respecting," and then a list of topics follows. The authority to make regulations is a delegation of legislative authority by the Legislature to a specified person or body. Regulations are therefore known as delegated legislation.

The authority to make a regulation is set out in an act, and regulations are said to be made under an act. The

statutory provision that authorizes a regulation to be made specifies who is authorized to make it. In most cases, the statute authorizes the Lieutenant Governor in Council to make regulations. In some cases, the statute will authorize the relevant minister to make regulations. There are other possibilities, but they're not as common. For example, a police commission or a marketing commission or the governing body of a profession may be authorized to make regulations either alone or subject to the approval of the Lieutenant Governor in Council or subject to the approval of a minister.

There are three basic steps in the regulations process: making, filing and publishing. A regulation is made when it's signed by the persons who are authorized by the statute. So if the statute says, "The minister may make regulations subject to the approval of the Lieutenant Governor in Council," then the regulation must be signed by the minister, also by the chair of cabinet, and by the Lieutenant Governor. At that point, the regulation is considered to have been made. However, a regulation has no legal effect unless it is filed with the registrar of regulations. It's only when a regulation is filed with the registrar of regulations that it is considered to be law. Every regulation must also be published on the e-Laws website promptly after it is filed. This is a legal requirement in the Legislation Act. There's also a legal requirement that every regulation must be published in the print version of the Ontario Gazette within one month after it is filed.

There is a distinction between the date that a regulation comes into force and the date that it can be enforced against a person. A regulation comes into force on the day that it's filed with the registrar of regulations unless it provides otherwise. Some regulations provide that they come into force on a specified future date, or they can provide that they come into force on the same day that a provision of the act comes into force. But a regulation isn't enforceable against a person until it has been published, unless the person had actual notice of it.

Now I'll say a few words about the role of the registrar of regulations. The registrar is a lawyer in the Office of Legislative Counsel, appointed by the Lieutenant Governor in Council. The duties of the registrar include advising on and assisting in the preparation of regulations, numbering regulations as they're filed and publishing them, and setting standards for the format in which regulations are submitted for filing.

The Office of Legislative Counsel, under the direction of the registrar, provides advice to the regulation maker on drafting issues, such as the wording of the regulation, how to organize the regulation, on whether the content of the regulation is within the authority set out in the statute, and on various other legal issues. The advice given to the regulation maker by the Office of Legislative Counsel is confidential legal advice.

The registrar can't refuse to accept a regulation for filing just because the registrar may be of the view that the regulation is not authorized, or if the registrar is of the view that it contravenes the guidelines in the standing orders. If the regulation appears to have been made correctly, if the signatures of the appropriate people appear on the regulation, then the regulation can be filed. Regulations are presumed to be valid until they're found to be not valid by a court.

The Chair (Mr. Michael Prue): Any questions? No questions. Thank you very much.

DRAFT REPORT ON REGULATIONS

The Chair (Mr. Michael Prue): I would next invite up Marta Kennedy and Andrew McNaught so we can get into the balance of the agenda.

Just for the record, on the last occasion, there was a request to hold this matter down in order to invite those interested ministries that wanted to comment to be allowed to come forward, and that has been done.

Just for the record, Madam Clerk, could you say to whom you sent the letters—and not all, I believe, responded—so that it's on the record that they were sent the information?

0910

The Clerk of the Committee (Ms. Sylwia Przezdziecki): Letters inviting ministry representatives to appear were mailed to legal directors in the ministries whose regulations appear in the regulations report. Those are the Ministry of the Attorney General, the Ministry of Community and Social Services Family Responsibility Office, the Ministry of Education, the Ministry of Health and Long-Term Care, the Ministry of Government Services and the Ministry of Small Business and Consumer Services.

The Chair (Mr. Michael Prue): So what I propose to do as Chair is to briefly ask Ms. Kennedy to continue with anything she might have had to say the other day, and then we will deal with the proposed changes one at a time and invite the respective ministries, if they have anything they want to say about it, forward for a very brief statement. Now, we only have a little over an hour to conduct the business today, and we're hoping to finish it, so I would ask the members, if they have questions, to keep them to a minimum. First of all, Ms. Kennedy.

Ms. Marta Kennedy: As the Chair said, my name is Marta Kennedy. I'm a research officer and lawyer with the legislative library.

For time considerations, I'm going to be very brief. Last meeting, we discussed briefly the Ontario College of

Teachers Act, which is the first regulation that appears in the report. It's on pages 5 to 7, and you should all have a copy of that report. I'm not going to go through that regulation, since we discussed it at the last meeting. I'm going to start very quickly and cover the next set of regulations, which begins on page 7, and they're listed under the heading of the Ministry of Government and Consumer Services. There are four regulations that are listed under this heading. Two of them are now actually being administered by the Ministry of Small Business and Consumer Services. The regulations that are included in the report here—all of these are regulations where the ministry has agreed that there's a problem and has proposed a solution. The draft recommendations on pages 8 and 9 reflect those solutions that they've proposed. Unless you have questions about those regulations, I'm just going to go right by them.

The Chair (Mr. Michael Prue): Let's deal with each one, in case there is. Is there anyone here to discuss recommendation 1, any person from any of the ministries?

Interjection.

The Chair (Mr. Michael Prue): The first recommendation reads: "The Ministry of Education amend O. Reg. 72/97 to remove all references to the suspension of elected members of the Council of the Ontario College of Teachers."

Is there anyone here from a ministry to speak to that? Please come forward, then. Now, I just need to state for the record, as the ministries understand, the recommendation is made by the committee; it does not force the ministry or the minister to do anything other than take it under advisement. So, knowing that, can you explain to the committee why you may not want the committee to go forward with this recommendation?

Mr. David Costen: My name is David Costen, and I'm the legal director for the Ministry of Education and the Ministry of Training, Colleges and Universities. We've prepared some materials for the committee's consideration to address the two concerns that have been raised in the report. We hope that this will be helpful in your deliberations in terms of looking at the draft report.

If I could take you to slide 2 of the presentation, the regulations that are before you and what you are considering are regulations coming out of the Ontario College of Teachers Act. Just to frame this whole discussion, it's important to recognize that the Ontario College of Teachers is an independent, self-governing, regulatory body established through the Ontario College of Teachers Act of 1996, and you'll see in our materials that it's referred to as the OCTA. Its role is to regulate the profession of teaching and to govern its members.

This is one of the bodies that Ms. Gottheil referred to in which self-governing bodies initiate changes to the regulations. You'll see on the second bullet point of page 2 that the regulation-making authority of the OCTA is set out in subsection 40(1) and it describes a process whereby the Lieutenant Governor in Council approves the regulation on prior review by the minister and also

the council of the college. Bear in mind that the process that this regulation comes to you from is a little different than the normal regulation that's developed within a ministry, goes through a policy approval process and then comes through legs and regs, and is ultimately approved by the cabinet.

Just to give you a little bit of history about this particular section, in 2006, Bill 78 introduced amendments to the OCTA. They did two things: They imposed an explicit duty on each council member to serve and protect the public interest and act in accordance with any prescribed conflict-of-interest provisions; and they added a new conflict-of-interest regulatory authority. The new conflict-of-interest regulatory authority provided that the OCT, the Ontario College of Teachers, with the approval of cabinet, could make regulations. You see that at the bottom of page 3 we've reproduced that section. That's a new section that has been added to the regulation-making authority that the college already had.

If I could take you to page 4, the general regulation for this was an older regulation, 72/97. That was the general regulation made under the act, and it was amended by a regulation on July 23, 2007. That's 369/07, the regulation that you have before you. It was to implement the change of adding the new section on conflict of interest, which I referred to.

As we understand the concerns of the standing committee, it's understood that the draft report on regulations that has been presented to the standing committee identifies two areas of concern with respect to O. Reg. 369/07, one of which also relates to the general regulation in 72/97. I'll deal with the first one now.

It's been asserted that the regulations may be in contravention of the second guideline set out in standing order 107(i), that, "Regulations should be in strict accord with the statute conferring of power." The regulation-making authority of subsection 40(1) of the OCTA allows for a regulation prescribing the conditions disqualifying elected members from sitting on the council and governing the removal of disqualified members from the council. As I understand it, the concern of the draft report is the wording around "disqualified."

Under the sections under consideration are the sections of Reg. 72/97 and Reg. 369/07 that deal with disqualification and which include a reference to suspending the member. That whole section is laid out in our appendix.

Our response to this first point is that the OCTA provides authority for the council of the college to make regulations concerning the conditions disqualifying elected members from council and governing the removal of disqualified members. Section 6 of the original regulation, which is 72/97, establishes a disqualification scheme which the college is to follow if that trigger point is required. In these subsections, suspension is an element of disqualification.

If you see that disqualification can happen in a number of ways, suspension in a time-limited way is one subset of disqualification. That can either be done by an inter-

mediate step, where a member is under review, or in a time-limited disqualification set out as to how the member is to act while suspended by the council.

Again, subsections 6(3) and (4), which include suspension provisions, were not part of the amendments of the 2007 amendments, but actually were part of the original disqualification scheme. So if you trace back the original scheme that was set up here, the cabinet, through the regulation, considered a situation where a suspension would be a subset of disqualification. As you can imagine, there could be all forms of disqualification: permanent disqualification, and a suspension which would be a more time-limited situation. So that would be our response to the first point.

0920

Our response to the second point: The draft report asserts that there is a contradiction between section 27(1) and section 27(6) of regulation 72/97, as these subsections relate to a member being present when a decision is being made in which a member may have a conflict of interest. The details of that are set out in appendix II of our materials. It is asserted in the draft report that the apparent contradiction may violate the third guideline set out in standing order 107(i)(iii): "Regulations should be expressed in precise and unambiguous language." Our response to that point is that these sections are not in conflict, but, rather, complement one another. Section 27(1) is a definition section. It defines what is a conflict of interest. Section 27(6) identifies the rules and guidelines to be followed by a member if the member becomes aware of a conflict. This includes that, if permitted, a member can remain present at a meeting even if it is a conflict of interest, if the prescribed circumstances are met.

Just to sum up, this is a regulation that was made by the Ontario College of Teachers. It was reviewed by the college council, which is responsible for the communication and implementation of that regulation, and any proposed changes to the regulation would require a review by the college council and subsequent approval by the college council.

The Chair (Mr. Michael Prue): Having said all of that, the job of this committee is not to arbitrate whether your legal opinion is right, but it is to send it to the appropriate body for review. Do you have any objection to it being sent to the appropriate body for review?

Mr. David Costen: I think we would have no objection to that being put forward, so long as our concerns are properly reflected.

The Chair (Mr. Michael Prue): Okay. Any discussion, then, from the committee members?

Mr. Mario Sergio: Sorry, Mr. Chairman, did he say "revised"? What was your last comment?

Mr. Bas Balkissoon: No, it's okay. He wants to go forward.

Mr. Mario Sergio: I understand he wants to go forward. Did you say, as long as your concerns—

Mr. David Costen: As long as our position is made part of the report or reflected in the report.

Mr. Mario Sergio: Okay.

The Chair (Mr. Michael Prue): All right. So we have that copy, and a copy will be sent. Mr. Miller.

Mr. Paul Miller: It's been my understanding, over the years, that not all teachers like the college. They have to pay dues to it and all that. It's not a popular organization.

Secondly, who do they answer to, in this whole body of language? They're making decisions about conflicts. Where does that person who may be under review go for an amendment or go for an objection? Who does he or she appeal to if this body comes down with a decision that is contradictory to what she or he thinks is right?

Mr. David Costen: My colleague Margaret Kohr, who is an expert in this particular area, is probably better suited to answer that question.

Ms. Margaret Kohr: I'm not an expert, but this particular regulation is dealing with matters internal to the college, so this is related to the executive council of the college; it's how the college itself governs internally. And there's a review process, if there is a suspension or an ultimate disqualification to be on the council.

Mr. Paul Miller: With all due respect, I'm asking who this person, if they don't agree with the decision of the college, can go to. Do they come to this committee? Do they go higher? If they're in conflict, what avenue of appeal do they have?

Ms. Margaret Kohr: There is a section in regulation 369/07 which identifies that "a member against whom a determination ... is made may, within 10 days after receiving notice of the determination ... submit a written notice of appeal to the council." The council would "hold a hearing for every appeal submitted to it ... within 30 days of receiving the notice," and no member of the council who participated in the original decision would participate in the review.

Mr. Paul Miller: That's what I wanted.

The Chair (Mr. Michael Prue): Just for the record, Hansard didn't get your name.

Ms. Margaret Kohr: Margaret Kohr.

The Chair (Mr. Michael Prue): Any other questions? Seeing none, we'll go on.

Ms. Kennedy, you started to describe the next committee recommendations, which are recommendations 2, 3, 4 and 5:

"2. The Ministry of Government and Consumer Services proceed with appropriate amendments to the Liquor Licence Act.

"3. The Ministry of Government and Consumer Services proceed with appropriate amendments to O. Reg. 215/01.

"4. The Ministry of Government and Consumer Services proceed with appropriate amendments to O. Reg. 214/01 and 223/01.

"5. The Ministry of Government and Consumer Services proceed with appropriate amendments to O. Reg. 223/01 and 210/01."

Is there anyone here to speak to those? There is. All right. Would you identify yourself, and the same proviso: In the end, it has to come down to, do you have any

objection to the committee sending this for review to the ministry? That's the final and bottom line.

Ms. Kennedy:

Ms. Marta Kennedy: I know it's hard to know what to respond to, given that you haven't actually seen the draft report. I just wanted to point out to you that these recommendations are based on your recommendations on how you propose to deal with these issues.

Ms. Rosemary Logan: Correct. I'm Rosemary Logan, counsel with the ministry. The ministry's intention is to proceed with amendments to the regulations under the Technical Standards and Safety Act at our earliest opportunity. With respect to the amendments to the Liquor Licence Act, I presume that would be to clarify that endorsements may be added to liquor licences. Is that correct?

Ms. Marta Kennedy: Yes.

Ms. Rosemary Logan: I guess we can take that under consideration. By way of historical context, the classes and endorsements of licences have been in place since the Liquor Licence Act had a major revamp in 1990, so it's a system that's well known to liquor licensees, and it's well entrenched.

The Chair (Mr. Michael Prue): I take it, then, that you have no objection to the committee forwarding this to you.

Ms. Rosemary Logan: That's correct.

The Chair (Mr. Michael Prue): Any questions of the members?

Thank you for your attendance.

The next committee recommendation would be recommendation number 6.

Ms. Marta Kennedy: That was actually a recommendation that falls under the Ministry of Government Services, having to do with the Vital Statistics Act.

The Chair (Mr. Michael Prue): Would you briefly state the purpose of it?

Ms. Marta Kennedy: Sure. We're at the bottom of page 9 of the draft report. This is a housekeeping matter. What happened was that there was a minor error. The regulation was amended so that it refers to a section of the act that no longer exists, and the ministry had proposed two possible solutions to the problem. I'll let the ministry discuss those.

The Chair (Mr. Michael Prue): Okay.

For the record, could you give your name for Hansard?

Mr. Jacob Bakan: My name is Jacob Bakan, legal counsel from the Ministry of Government Services.

The Chair (Mr. Michael Prue): The proviso I have given to the other people is that we have to determine whether to send it on to the ministry for review. Ultimately, the answer has to be either yes, you agree to send it for review, or no, you don't, and why you don't. Having said that, please proceed.

Mr. Jacob Bakan: We have no objection to the recommendation as discussed in the correspondence back and forth.

The Chair (Mr. Michael Prue): Any discussion by committee members? Thank you very much.

Next.

0930

Ms. Marta Kennedy: We're on page 10 now of the draft report. We're looking at two regulations under the Ministry of Health and Long-Term Care, one under the Nursing Act and one under the Dentistry Act, 1991. These are two regulations where the ministry does not believe that the regulations violate the committee's guidelines. What we're looking at here is the difference between "set" and "approved." That may seem a little picky. The main reason it's being brought forward is because the act was amended to allow regulations about setting and approving examinations. That was done in June 2007. In July 2007, the colleges of nursing and dentistry—separately—amended their regulations to talk about approving exams. Unfortunately, the amendments to the act don't come into force until June 2009, so it appears as though the colleges have jumped the gun by about two years. The ministry has said in its correspondence that it believes that it already has the authority to do that under the previous wording of the act.

The Chair (Mr. Michael Prue): So this is committee recommendation—

Ms. Marta Kennedy: Oh, I'm sorry. This is committee recommendation number 7.

The Chair (Mr. Michael Prue): Found on page 13.

Ms. Marta Kennedy: On page 13, yes.

The Chair (Mr. Michael Prue): Having heard that, is there anyone here from the ministry to respond to this? No? Okay. Are there any questions, then, of committee? Okay. Thank you very much for that. On to the next one.

Ms. Marta Kennedy: The next regulation is on page 13 of the draft report. It's a regulation that's administered by the Ministry of the Attorney General. This regulation was reported as a potential violation of two guidelines: the court jurisdiction guideline and the administrative tribunals guideline.

This is a new regulation under the Municipal Act. What it does is allow municipalities to impose what are called in the act "administrative penalties" for the violation of parking bylaws. These are essentially parking tickets under a different name. As part of imposing these new administrative penalties, they've set up a system whereby you can appeal your parking ticket to what's called a "hearing officer." It appears—based on what the hearing officer does—that a hearing officer that allows a person to appear before them and conducts a hearing meets the definition of an "administrative tribunal." That would appear to violate your guideline that you can't create an administrative tribunal by regulation. That's the first point.

The second point is the court jurisdiction. The guideline about court jurisdiction says that you can't exclude the jurisdiction of the courts by regulation. This regulation quite clearly says that the decision of a hearing officer is final, and what this does essentially is that it's

supposed to prevent appeals to courts. Again, that would seem to violate the committee's guideline.

We have two draft recommendations on page 16, numbers 8 and 9, the first being that "The Ministry of the Attorney General amend the Municipal Act, 2001, to allow for the creation by regulation of an administrative tribunal that reviews the decisions of screening officers," and draft recommendation 9, which is that "The Ministry of the Attorney General amend O. Reg 333/07 by revoking subsection 8(5)," which is the section that excludes the jurisdiction of the courts.

The Chair (Mr. Michael Prue): Having heard that, is there anyone here from the Ministry of the Attorney General? Please come forward. Again, if you can identify yourself for the purposes of Hansard. And remember, the proviso in the end is whether you have any objection to the committee forwarding this for further discussion and/or action.

Ms. Diana Hunt: Is that referral to the Ministry of the Attorney General?

The Chair (Mr. Michael Prue): Yes, in the end. This is the recommendation of the committee. We are not here to arbitrate who is right; we are here simply to facilitate and to determine whether or not this is something that should be discussed.

Ms. Diana Hunt: My name is Diana Hunt. I'm the director of the criminal/POA policy and programs branch in the court services division at the Ministry of the Attorney General. This is my colleague, Lisa Minuk. She's counsel in my branch.

With respect to your first recommendation, it's the position of the Ministry of the Attorney General that the broad powers under the amendments to the Municipal Act do authorize the provisions we have put in place with respect to an administrative penalty scheme. Subsection 102.1(3) of the Municipal Act provides very broad regulation-making power, which allows us to provide for any matters that are necessary or desirable for the purpose of the section, including granting municipalities the power to require that persons pay administrative penalties, and with respect to other matters necessary for a system of administrative penalties. It also permits the Lieutenant Governor in Council to impose conditions and limitations on a municipality's powers.

These provisions assist municipalities by allowing them to regulate routine parking matters through a local administrative system rather than under the Provincial Offences Act. Despite permitting municipalities to take these matters outside the Provincial Offences Act, the system still requires an administrative decision-maker who can determine how the system would affect individuals; otherwise, there would be no way to challenge the imposition of an administrative penalty. In any event, whenever a penalty is imposed, there needs to be a procedure put in place that would require fairness. There is nothing in the Municipal Act that would suggest that those liable to pay administrative penalties should be deprived of an opportunity to respond to the imposition of the penalty.

In fact, the requirement in the Municipal Act that the regulation can only be made by the Lieutenant Governor in Council on the recommendation of the Attorney General, who is responsible for the administration of justice in the province, does imply that the system of administrative penalties is required to be fair. It is the position of the Ministry of the Attorney General that fairness in this case requires that persons upon whom a penalty is imposed be provided an opportunity to be heard. Therefore, one of the conditions and limitations that have been imposed on municipalities in moving into administrative penalty systems is that they are required to appoint hearing officers and to give people an opportunity to be heard.

With respect to that recommendation, it's our position that the legislative intention can clearly be inferred, from these broad powers, that municipalities must be given the opportunity to create administrative tribunals in order to be able to take advantage of the administrative penalty program that is being offered to them under the legislation.

With respect to the second recommendation, it's the ministry's position that we absolutely have not excluded the jurisdiction of the courts. It would be available to anybody upon whom an administrative penalty was imposed to apply for a judicial review. Upon a judicial review, the divisional court can set aside the decision of a hearing officer if, for example, the hearing officer acted outside his jurisdiction, if he or she conducted an unfair hearing or if he or she made an error of law or an error of fact. So the courts very much have an oversight role under the Judicial Review Procedure Act. All we have done is to say that there's no further step past the hearing officer at the municipal level.

0940

The Chair (Mr. Michael Prue): Again, we are not here to arbitrate. Our job is to send any perceived problems to the Legislature for onward transmission to the appropriate ministry. Do you have any objection to this being sent to your ministry for discussion on these two points?

Ms. Diana Hunt: No.

The Chair (Mr. Michael Prue): That being the case, are there any questions of the deputy?

Mr. Paul Miller: I've just got one question. Correct me if I'm wrong, but is this not creating another level of bureaucracy with this tribunal that you want to have? If someone gets a ticket, they go to provincial court and fight the ticket. Now you're creating each municipality to have an administrative body called a tribunal that will make the final decision on that person's violation. But on the other hand, you say they can go to court if they're not happy with the decision. Are you not putting a middle-man in there now that makes even more red tape to deal with an offence? And what do you mean by administrative penalties? Are you talking about court costs and the time required by the municipality or the courts involved with that individual on their appeal? What do you mean? What are you talking about?

Ms. Diana Hunt: Prior to these amendments to the Municipal Act, if a person received a parking ticket and wanted to challenge it, they had the right to go to the Ontario Court of Justice under the Provincial Offences Act, and upon conviction could be required to pay a fine. What these amendments do is offer to the municipalities an alternative way of regulating parking so that if the municipalities comply with the terms and conditions in the regulation that we have set out, they can, by bylaw, establish an alternate system of dealing with parking tickets, which would mean that they would not go through the Provincial Offences Act courts. Instead, if you got a ticket, you would automatically be liable to pay an administrative penalty. You can go to a screening officer and challenge the ticket on—

Mr. Paul Miller: Sorry for interrupting, but are you not telling me that the decision of that individual—the municipality has created a different route—is not final and binding? This person can also decide to go on to court and appeal it?

Ms. Diana Hunt: I think it would be virtually impossible to ever exclude judicial review.

Mr. Paul Miller: So it's final and binding. This is actually relieving court time for the provincial courts and allowing municipalities to deal with it directly. I'm getting mixed messages here. You're saying they can appeal it to the court, or they can't? It's a final decision by whoever is appointed by the municipality to make that decision? That's it; they can't go any further?

Ms. Diana Hunt: Unless there are grounds to judicially review the matter to the divisional court of the Superior Court of Justice.

Mr. Paul Miller: There are lots of technicalities and grounds, so really, what I think we're doing here is creating another job, another level of bureaucracy in the community. That's my point.

The Chair (Mr. Michael Prue): Any further questions? Seeing none, thank you very much.

We have one final matter. The members of the committee would have gotten an update. The update was sent October 9. It was confidential for committee use only, and it includes a 10th recommendation. Again, I don't know whether anyone is here from the Ministry of Community and Social Services, but we'll wait for a moment. Ms. Kennedy, if you could brief us on the recommendation.

Ms. Marta Kennedy: If you look at page 16 of the draft report, at the bottom of page 16, there's a note to the committee. It's about a regulation that's administered by the Family Responsibility Office. At the time when the report was prepared, we hadn't yet received an answer to a second letter we had sent to the Family Responsibility Office. Since the report has been prepared, we have received that response, and so what we are suggesting is that this note to committee at the bottom of page 16 be removed and the wording on pages 2, 3 and 4 of the update be inserted in its place.

I'll just go through the update with you very quickly. At the bottom of page 2 of the update memo, this is a

new regulation, and it creates what it calls “standard terms that are recommended for support orders.” It gives wording for courts to use when they draft child support orders or spousal support orders. So the regulation is set out as a series of recommendations, not as a set of requirements. So the question is, if this is a regulation that only sets out recommendations, what legal effect does it have? Are these recommendations binding? Are they enforceable? It’s a bit confusing—whether you have to follow this regulation, because they’re only recommendations, and what the consequences would be if you didn’t follow these recommendations.

We’ve prepared a draft recommendation on page four of that update memo. It’s recommendation number 10. It recommends that the ministry amend either the act or the regulations to deal with this.

The Chair (Mr. Michael Prue): Okay. Having heard that, you’re from, I assume, the Ministry of Community and Social Services—if you could identify yourself for the purposes of Hansard.

Again, with the same proviso, in the end it’s whether or not you object to its being forwarded through the Legislature to the appropriate ministry for discussion.

Ms. Lois Bain: Good morning. My name is Lois Bain and I’m the assistant deputy minister at the Family Responsibility Office. With me is Tina Earl, who is counsel with the office. Thank you for this opportunity. We did circulate some materials earlier. I’m not sure if committee members have them.

The Chair (Mr. Michael Prue): You’re referring to this large volume here.

Ms. Lois Bain: The binder, yes.

The Chair (Mr. Michael Prue): Yes, okay.

Ms. Lois Bain: We’re only going to refer to a section of it which is in the very front of it. I’m going to say a couple of words about the—

Mr. Mario Sergio: Excuse me; I didn’t hear Ms. Bain saying if she has any concern if we forward this to the Legislature.

The Chair (Mr. Michael Prue): Well, she hasn’t got to that point yet.

Mr. Mario Sergio: She didn’t get to that point? I thought she was going straight into the presentation.

The Chair (Mr. Michael Prue): No, but she is. That’s the proviso, the ultimate question that we have to ask at the end, because that’s the role of the committee. It’s not to arbitrate who is right.

Ms. Lois Bain: Fair enough.

Just a bit of context: Our sole mandate—the sole mandate of myself as the director of the Family Responsibility Office—is to enforce either spousal or child support. Each order that we receive from the court has to indicate the amount of support that we are to enforce, and many times what we get from the courts doesn’t have that information. When we can’t determine the amount of support, then we have to decline to enforce the order. You can imagine how disappointing and contentious it can be for both recipients and payers, and for their

lawyers alike, when that happens, and the frustration that they experience.

We operate under the child support guidelines that require orders to contain certain information. Most orders do not conform to these requirements; however, often they have enough information in them that, in fact, we can enforce the order. Specifically, we need to know the name of the payer, the name of the recipient, and we need to know the number of children, if any, in the family and the amount of support that has been deemed payable and when that first payment is due.

The regulation that we’re speaking about today provides assurances to both litigants that the order can be enforced by the Family Responsibility Office if they use the recommended wording, because all legally required information will be included in those terms.

I’m going to ask Tina to talk specifically to some of the concerns that have been raised.

Ms. Tina Earl: Yes. Actually, just so that you understand this, the reason we can decline to enforce a support order is that, under our legislation, under section 7(1)(c), the director can refuse or decline to enforce where an order itself is ambiguous or its meaning is unclear, which is actually rather ironic considering the concerns of this committee. Clause 63(1)(p.2) of the act was added under Bill 155, which was just a few years ago. In 2004 the Liberals brought it forward, and it passed in 2005. It wasn’t in the original bill, but it was added at the Standing Committee on General Government in May 2005. The purpose of that clause was, as we pointed out at the time in the explanatory notes, to provide wording to help parties—not just courts, but particularly parties—because most people draft their own separation agreements, or they are in court and they quickly draft up something about what they want their order to be, and the court just accepts, as filed, whatever their endorsement says. So we wanted to make sure that, in the majority of cases, in the greater percentage of cases, we could actually enforce the orders.

0950

Now, I’ve gone through the different standing orders, and just wanted to respond to each one of them. I know that the concerns are basically that, first of all, our regulation 454/07 doesn’t have the force of law and therefore can’t be a legislative instrument, and then also that the legal effect of the regulation is unclear or ambiguous. I did notice, in the standing orders, that there is no requirement that there be clarity of legal effect of a regulation; rather, that it be comprehensible to the person reading it. So first of all, whether or not it’s a legislative instrument: It was pointed out to us that the Supreme Court case of Manitoba language rights dealt with whether or not something that wasn’t a regulation or a statute could be a legislative instrument. But the court said that any statute and any regulation is a legislative instrument. That’s our argument, basically: that it has to be a legislative instrument if it’s a regulation, and it is a regulation. We have the authority, in the statute, to make this regulation. The authority itself says, “recommended

terms." We never got authority to make mandatory terms. There is a reason for that, and actually, I'm just going to skip to slide 12.

The reason why it couldn't be "mandatory effect" is because we have to recognize judicial jurisdiction, which is your standing rule 5. If we told the judges of this province what they had to put in, and that if they didn't put it into their orders the order would be of no effect, that would be treading on their toes and we didn't want to do that. We can't do that. So we didn't violate that one. We were never accused of violating that standing order, but had we made it a mandatory effect, we would have been treading on their toes and we would have been violating that standing order.

The policy was established by statute to be recommended terms, so we did comply with standing order 1. As far as the ambiguous and imprecise language: The reason that there are rules against vagueness or ambiguity is because people need to know what they have to do and what the penalties are, if any, if they don't do it. In this case, there is no penalty. They are recommendations. They are just exactly what they say: "In this case, this is recommended, to put this language in." If they don't put it in and we can understand it, we will still enforce it. This is our guarantee that they will be able to have their order enforced. It is not mandatory that they use it, but it gives them some sense of security to know that if they use our terms, as we've suggested them, or something very similar, they will be able to have their order enforced and it won't be sent away.

The rest of the standing order rules—we haven't violated those as well, but I've just set out exactly that we haven't, in our presentation.

The Chair (Mr. Michael Prue): We come down, again, to the ultimate question: We're not here to arbitrate. We are here to forward it to the House, in turn to the ministry, for discussion. Do you have any objections to that?

Ms. Tina Earl: No, we don't have any objections to that.

The Chair (Mr. Michael Prue): Questions? I saw Mr. Miller and then Mr. Craitor.

Mr. Paul Miller: In your opening statement you said that it's kind of a grey area on the amount of support to be paid. I'm a little confused. Don't you have a guideline of so much per child, based on the income of the individual? Also, you said you have trouble following court orders. It's my understanding that in a lot of cases you've actually garnisheed people's wages, you've frozen their bank accounts. That, I would say, is quite a lot of power. I'm a little confused with your statement, and maybe you can help me out with that.

Ms. Tina Earl: I'd be glad to. First of all, the Family Responsibility Office doesn't determine the amount of support. We receive an order from the courts or a separation agreement from the parties, and it says in it, "Mr. Smith shall pay Mrs. Smith X amount"—

Mr. Paul Miller: But the judge has a guideline.

Ms. Tina Earl: Somebody has to tell us how much.

Mr. Paul Miller: Well, the judge has a guideline.

Ms. Lois Bain: And where it's clear—

Mr. Paul Miller: It's so much per child per amount that they make.

Ms. Tina Earl: Exactly, but we're not allowed to determine that amount, and even if we were—

Mr. Paul Miller: It's usually in the order, isn't it?

Ms. Lois Bain: Not always. That's the point—

Ms. Tina Earl: Absolutely. When it's written down, we have powers to enforce, but when the judge doesn't specify either the names of the parent and the recipient or if they don't specify the amount per the child support guidelines, we are left—

Mr. Paul Miller: Has your organization ever acted and determined yourself the interpretation of what the judge has said and gone ahead and done that, which may have been incorrect? Has that ever happened?

Ms. Tina Earl: I suppose it's possible, but I wouldn't think so. Usually what we do is refuse to enforce. So what we'll say is, "I can't figure it out, we can't enforce," and send it back. That's what our legal advice would always be.

Mr. Paul Miller: I've heard a few horror stories and other interpretations, but anyway, okay, I hear it. We're not here to discuss the procedures.

The Chair (Mr. Michael Prue): No. Mr. Craitor.

Mr. Kim Craitor: Actually, I am going to discuss procedure, so that's fine. I'm really glad you're here. This is one that I get a lot of, so it was really helpful to listen to you, because it's amazing how I get people who come in and say, "You've got to go see the judge. He didn't put enough money into the order, and I think you're the MPP, so you have the right to call him up and tell him that he's wrong," or I get the converse, "He put too much into the order, Kim, and you should go see the judge and tell him to reduce it, because it's not fair." Obviously, it doesn't work that way. We don't go into the judicial system and say, "You should do this," or "You should do that." In fact, I think if I called a judge, I wouldn't be an MPP very long.

But I had a couple of questions, so I'm really glad you're here. When a court order is issued, does it automatically go to the Family Responsibility Office? Do you get it directly sent to you by the courts, or do you wait for the individual to bring it in to say that they want FRO to enforce this court order? The reason I ask is, I had a fellow show up who said that he and his wife had an agreement that they were going to do it in a cordial manner, but in the meantime—

The Chair (Mr. Michael Prue): Mr. Craitor, I've been advised they've having difficulty hearing you. You're too far away from the mike.

Mr. Kim Craitor: Okay. This is helpful for me because I've had a couple of these cases. In the meantime, I was told that it's now a new procedure that when the courts issue these court orders, they go directly to you and you just start enforcing them even if there was an agreement between the husband and wife, because in this case the husband's employer got a letter from you and so he was panicking, thinking he was going to lose his job

when they had this agreement. So you know what my question is: Does it automatically come to you and you just start enforcing? Is that something new?

Ms. Tina Earl: They are supposed to be sent automatically to us. There's often a delay because the court has to issue the order, which means it has to be typed up and signed by the judge—

Mr. Kim Craitor: So it's automatically sent to you, and you start enforcing?

Ms. Tina Earl: We enforce the most recent order that we have received. So if we haven't received a more recent order or filed agreement, then—

Mr. Kim Craitor: So even if there's an agreement between the husband and wife, you still start enforcing?

Ms. Lois Bain: We receive all of the orders. The parties can withdraw. It is a mandatory program, so every court order is filed with us unless the parties withdraw.

Mr. Kim Craitor: Unless the parties—okay. Thanks.

The Chair (Mr. Michael Prue): Any other questions? No other questions. Thank you very much.

We are now in the process of moving the draft report and the amendment.

Shall the draft report on regulations, including the amendment, be adopted? Carried? Carried.

Upon receipt of the printed report, shall the Chair present the committee's report on regulations to the House and move the adoption of the recommendations? Carried? Carried.

Is there any other business, Madam Clerk or parliamentary assistant?

Mr. Mario Sergio: You did well, Mr. Chairman. Just before we get to the end, I would like to thank the library

staff for the work they have done in preparing the report. We had a couple of weeks to familiarize ourselves with the contents of this report as well, and I can see that it falls within the mandate of our committee. As such, I see no reason why we should not proceed in recommending the report to the Legislature. In turn, the various ministries will have an opportunity to review it again. Therefore, I have no problem with the report, and I want to thank you as well for being so patient with the members of the committee.

Mr. Paul Miller: Mr. Chair, there's another piece of information here that we haven't dealt with. It's a letter from Mr. Chudleigh requesting information.

The Chair (Mr. Michael Prue): Oh.

Mr. Paul Miller: It's not on this committee, but I'm wondering—I'm sorry; wrong committee. It's the Standing Committee on Estimates. I'm wrong.

The Chair (Mr. Michael Prue): Okay.

Mr. Paul Miller: I withdraw that statement.

The Chair (Mr. Michael Prue): All right, because I had not seen that.

I believe that that is the conclusion of the meeting today, other than that the next meeting will be scheduled at the call of the Chair. It will be approximately two or three weeks from now, depending on the period—I believe we're off in remembrance week, so I'm not sure of the time frame. But it will be at the call of the Chair in approximately that time frame. Any other business?

Meeting adjourned.

The committee adjourned at 1001.

CONTENTS

Wednesday 22 October 2008

Subcommittee report.....	T-45
Registrar of regulations briefing	T-45
Ms. Joanne Gottheil	
Draft report on regulations.....	T-46

STANDING COMMITTEE ON REGULATIONS AND PRIVATE BILLS

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Mr. Michael Prue (Beaches–East York ND)

Mr. Tony Ruprecht (Davenport L)

Mr. Mario Sergio (York West / York-Ouest L)

Also taking part / Autres participants et participantes

Ms. Diana Hunt, director, criminal/POA policy and programs branch,

Ministry of the Attorney General

Ms. Lois Bain, assistant deputy minister,

Ms. Tina Earl, counsel,

Family Responsibility Office,

Ministry of Community and Social Services

Mr. David Costen, legal director, legal services branch,

Ministry of Education /

Ministry of Training, Colleges and Universities

Ms. Margaret Kohr, counsel, legal services branch,

Ministry of Education

Ms. Rosemary Logan, senior counsel, legal services branch,

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ISSN 1180-4319

Legislative Assembly of Ontario

First Session, 39th Parliament

Official Report of Debates (Hansard)

Wednesday 5 November 2008

Standing Committee on
Regulations and Private Bills

Assemblée législative de l'Ontario

Première session, 39^e législature

Journal des débats (Hansard)

Mercredi 5 novembre 2008

Comité permanent des
règlements et des projets
de loi d'intérêt privé

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Room 500, West Wing, Legislative Building
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Telephone 416-325-7400; fax 416-325-7430
Published by the Legislative Assembly of Ontario



Service du Journal des débats et d'interprétation
Salle 500, aile ouest, Édifice du Parlement
111, rue Wellesley ouest, Queen's Park
Toronto ON M7A 1A2
Téléphone, 416-325-7400; télécopieur, 416-325-7430
Publié par l'Assemblée législative de l'Ontario

LEGISLATIVE ASSEMBLY OF ONTARIO

**STANDING COMMITTEE
ON REGULATIONS
AND PRIVATE BILLS**

Wednesday 5 November 2008

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

**COMITÉ PERMANENT DES
RÈGLEMENTS ET DES PROJETS DE LOI
D'INTÉRÊT PRIVÉ**

Mercredi 5 novembre 2008

The committee met at 0859 in room 228.

**MASTER'S COLLEGE
AND SEMINARY ACT, 2008**

Consideration of Bill Pr10, An Act respecting Master's College and Seminary.

The Chair (Mr. Michael Prue): I'll call the meeting to order. We're here on Bill Pr10, An Act respecting Master's College and Seminary Act, 2008.

Mr. Craitor has now arrived. You were about to be substituted.

I would like to introduce the sponsor of the bill, Mr. Craitor. Would Mr. Craitor please invite the applicants forward? According to our list here, it's William Morrow, president of Master's College and Seminary; Don Ariss, past business administrator; and Emmett Connolly, legal counsel. That's who I understand are the three applicants.

Mr. Kim Craitor: You decide the order.

The Chair (Mr. Michael Prue): The first item to be dealt with is, are there any comments that Mr. Craitor might have as the sponsor of the bill?

Mr. Kim Craitor: Thank you very much, Chair. It's a pleasure to bring forward this bill, and I think maybe the appropriate way of handling it for the benefit of the committee is to let the applicants speak on it themselves. So we'll just turn it directly over to you.

The Chair (Mr. Michael Prue): Terrific. As each of the applicants speaks, if you could identify yourself, who's speaking, for the purposes of Hansard.

Mr. Emmett Connolly: Sure. My name is Emmett Connolly. I'm counsel for Master's College. I'll just go over a brief history of the bill and a summary of our compendium materials.

As many of you know, this bill has been before the standing committee a couple of times and, as a result, two amendments have been made, the first being that the bill has been now time-limited in nature. The tax relief that we're asking for is limited to the term of the lease that Master's College has entered into. Secondly, it's conditional upon the city of Toronto passing an enabling bylaw. We feel that with these two amendments the act is now in a position to be passed.

Our compendium sets out a series of precedents where similar relief has been given to similar institutions to

Master's College. You'll see that those span from a variety of groups, such as universities, not-for-profit groups and charities. I think the Reena Foundation Act in 2006 is perhaps the most similar act where relief was given. It was a very similar circumstance where a charity such as Master's College was given time-limited tax relief for the lease they entered into, and in both cases their tax status changed because they went from owning land where, under the Assessment Act, they were exempt from tax to the situation where they lease land and, under the Assessment Act, there is no exemption on that basis.

The other factor we'd point out is that the lease in question directly states that any tax relief will go to benefit the charity, Master's College, as opposed to benefiting the landlord.

We also note that MPAC can assess situations like Master's College where they're only renting some of the space of the building and they can separately assess that, so that's not an issue in terms of practically complying with the exemption status. The college is fine with the fact that the exemption will only apply to the lease in question. The term of the lease is 2003 to 2013 and will only apply to the space that they currently occupy and will not apply to any extension of that space.

Finally, we note that the city supports the bill and passed a motion in April 2007 indicating that support. The Ministry of Finance, as we understand it, is fine with the bill as it stands as long as it has the city of Toronto enabling bylaw condition, which it does.

I think that summarizes the reasons for our request. I think Mr. Morrow and Mr. Ariss are available for questions, if we have any specific ones, and I'll obviously be ready for any questions as well.

The Chair (Mr. Michael Prue): First of all, I'm going to ask them in turn. Mr. Morrow, is there anything you wish to add? There may be questions later. Is there anything you wish to add to the presentation?

Mr. William Morrow: No, that's a good summary.

The Chair (Mr. Michael Prue): Okay.

Mr. Ariss, anything you wish to add to the summary?

Mr. Don Ariss: No, I think that gives a good summation of our position, thank you.

The Chair (Mr. Michael Prue): Are there any other interested parties present in the room on this bill? Anyone else who wishes to speak? Any other interested

parties? Seeing none, I would then ask the parliamentary assistant if there are any comments from the government?

Mr. Mario Sergio: First of all, I would like to thank Mr. Delaney for introducing the bill originally and Mr. Craitor for his work here, and the applicants themselves for the work that they have done in presenting the bill in a proper fashion.

The ministries don't have any problem with it—both the Ministry of Finance and the Ministry of Municipal Affairs and Housing. I don't have any objection to the bill going through, Mr. Chairman, and I would recommend approval of it.

The Chair (Mr. Michael Prue): Okay. Then we'll go to the next—the committee members. Are there any questions of the applicant or the parliamentary assistant or anyone else?

Mr. Gerry Martiniuk: My only question is to counsel for the committee. I take it that this legislation is enabling legislation only and that no tax revenues will be lost to the city of Toronto unless they pass the necessary enabling bylaw?

Ms. Susan Klein: That's correct.

Mr. Mario Sergio: That's correct, yes.

Mr. Gerry Martiniuk: Thank you.

Mr. Paul Miller: I have no problem supporting this application. I think it's probably long overdue, and I wish you all the best.

The Chair (Mr. Michael Prue): Mr. Craitor, if you sit in your seat as a committee member, I can certainly entertain your question. As the sponsor, I don't think that would be appropriate. Okay?

Interjections.

Mr. Kim Craitor: It's nice to see you.

The Chair (Mr. Michael Prue): All right, Mr. Craitor. You have a question?

Mr. Kim Craitor: I actually don't, and maybe this isn't the appropriate time, but I just wanted to share with you that Mr. Delaney certainly supported the bill. He spent time with me and asked me if I would represent him as the sponsor. He has a Remembrance Day ceremony event, and I just wanted to put on the record that that's the only reason he was not able to attend.

The Chair (Mr. Michael Prue): Any other further questions or comments? Then are we ready to vote? I have a list of questions here.

Shall section 1 carry? Carried.

Shall section 2 carry? Carried.

Shall section 3 carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? Agreed.

That item is finished.

Mr. Emmett Connolly: Thanks very much.

Mr. Don Ariss: Thank you very much.

0910

PORCUPINE GOLDORE MINES LIMITED ACT, 2008

Consideration of Bill Pr12, An Act to revive Porcupine Goldtop Mines Limited and to change its name to Porcupine Goldor Mines Limited.

The Chair (Mr. Michael Prue): I'll call the meeting back to order. The next item is Bill Pr12, An Act to revive Porcupine Goldtop Mines Limited and to change its name to Porcupine Goldor Mines Limited. The sponsor is Mr. Zimmer. Please come forward. The applicant, Hamish Sutherland, executor of the estate of Hugh Harold Sutherland, and Diane Brooks, legal counsel, may also come forward.

Mr. Zimmer, the floor is yours.

Mr. David Zimmer: Thank you. I am the sponsor of this bill. Just let me say this in that regard: I have become aware that there are issues in dispute regarding the bill between the benefactor, if you will, and other parties. In that regard, I asked the clerk of this committee, Ms. Przezdziecki, if she would provide me with a briefing note on the role of a sponsor in private bills, and I just wanted to speak to that for a moment.

As you know, every bill requires a sponsor, and the Legislative Assembly's private bills procedures stipulate that the name of the sponsoring MPP should be forwarded with the application for private legislation.

The sponsor does not have to support the private bill. Rather, the sponsorship of a private bill by an MPP provides the vehicle for a private individual or group of individuals to have their bill presented to the House. The private bill's sponsor, therefore, assumes no ownership of, or responsibility for, the private bill.

The sponsor of a private bill must be a private member of the Legislative Assembly. Therefore, a private bill may not be introduced by a minister or by the Speaker, who are not private members.

In summary, the sponsor of a private bill is the vehicle for the bill's introduction in the House on behalf of an applicant outside the Legislative Assembly. The sponsor is in no way committed to, or responsible for, the objectives put forward in the private bill. Accordingly, I take no position on what this committee should or should not do with this private bill.

The Chair (Mr. Michael Prue): I know that this opinion from the clerk was given to the member, Mr. Zimmer, and I believe other members of the committee have been given a copy as well.

Mr. Mario Sergio: Mr. Chairman—

The Chair (Mr. Michael Prue): On that point, the parliamentary assistant.

Mr. Mario Sergio: Just a question of Mr. Zimmer: You mentioned disputes. Are the disputes now in front of a court of law?

Mr. David Zimmer: I don't know the nature of the dispute or where the dispute is in the process.

Mr. Mario Sergio: The dispute is in process in a court of law?

Mr. David Zimmer: I understand that an objection has been received, and I was given a courtesy copy of that objection. That's all I know about.

The Chair (Mr. Michael Prue): I think the question might properly be put to the applicant, more than to the sponsor.

Mr. Mario Sergio: That is fine. Prior to having the applicant go into their presentation, may I ask the applicant if indeed there is a court case pending?

The Chair (Mr. Michael Prue): Okay, but first of all, we have a question of the sponsor, Mr. Zimmer. Mr. Balkissoon.

Mr. Bas Balkissoon: Mr. Zimmer, am I to understand clearly, then, that prior to you accepting the sponsorship of this bill, you were unaware of any concerns in the application?

Mr. David Zimmer: That's correct.

Mr. Bas Balkissoon: Okay. Thank you.

The Chair (Mr. Michael Prue): Any further questions of Mr. Zimmer? Seeing none, then I would invite the applicants who are seated—and I think it's a fair question that the parliamentary assistant has put forward. If you could, first of all, state which of the two of you is going to speak, and if you could answer that first, then we'll proceed from there.

Ms. Diane Brooks: Good morning. My name is Diane Brooks, from Blaney McMurtry. With respect to the revival of the corporation, there is no court action in process right now. As you are aware, a corporation does not have standing in court if it is dissolved.

The purpose of the bill is simply to revive the corporation. Mr. Hamish Sutherland has been informed that there are assets that the corporation may claim, and in order to do so, the corporation must be revived.

I direct your attention to section 3, the limitation in the bill, that talks about the—

M. Mario Sergio: Mr. Chairman—

The Chair (Mr. Michael Prue): Okay. Excuse me. Parliamentary assistant?

Mr. Mario Sergio: With all due respect, Ms. Brooks, I don't want you to go into the presentation unless it is clear to the members of the committee that there is no pending court case of any kind with respect to the application.

Ms. Diane Brooks: That is correct. Mr. Hamish Sutherland can speak further to that. Do you want to add something to that?

Mr. Hamish Sutherland: My name is Hamish Sutherland. I'm the sponsor of the bill and a co-executor of the estate of Hugh Harold Sutherland. There are no current court actions. There are no statements of claim or filings in place in any court.

Mr. Mario Sergio: We have a letter of opposition with respect to that. Can you tell us why, then, we have this letter of opposition?

The Chair (Mr. Michael Prue): If there's not a court case, I think the opponent—if someone is opposing, he

will have an opportunity to explain. We're going to hear everyone. If there is no court case—

Mr. Mario Sergio: Is there anybody in opposition here?

Interjection.

The Chair (Mr. Michael Prue): Yes. Anyone in opposition will be given an opportunity during the course of this hearing to say why they oppose.

Mr. Mario Sergio: Okay, so we want to make very clear that there is no court case, pending or otherwise, with respect to the application or on any matter related to the application.

Mr. Hamish Sutherland: This is correct. There is no court application in place.

Mr. Mario Sergio: Okay, thank you.

The Chair (Mr. Michael Prue): Then please proceed with your presentation.

Ms. Diane Brooks: I'd like to turn it over to Mr. Sutherland now to—

Interjection.

Ms. Diane Brooks: I'm sorry. If I could go back to my further point: I just wanted to draw attention to section 3 of the bill, where the revival of the corporation is not to be construed as determinative of any person's right to the assets of the corporation or the estate of Mr. Hugh Harold Sutherland. So the bill is meant only to revive the corporation to give it standing to claim assets that have been located.

Mr. Hamish Sutherland: If I may add to this and put a little history to the act, and speak to highlight points in the compendium: The company, Porcupine Goldor Mines Limited, was incorporated in 1936 by Hugh Harold Sutherland. It undertook mining exploration through prospectuses filed with the Ontario Securities Commission for the following decade, until 1945, when it underwent a name change to Porcupine Goldtop Mines Limited.

The company was idle for a period of six years, when Hugh Harold Sutherland acquired shares in corporations publicly traded on the Toronto Stock Exchange in the name of Porcupine Goldtop Mines Limited. The records of those shares and those transactions were lost until 2007, when Shell Canada acquired a company called BlackRock Ventures Limited for \$6 billion.

In the preceding years, Hugh Harold Sutherland died in 1972. The company survived in an idle state through 1978, when it was dissolved through lack of filing of documents with the Ontario Securities Commission. The documents it did not file were the simple corporate filings and the financial statements, financial information.

It is necessary for the corporation to be revived under the terms of the share transfer agreements with CIBC Mellon, the holder of the assets that are now reflected in the Shell Canada acquisition of BlackRock Ventures.

CIBC Mellon have asked for a corporate resolution. It is not possible to legitimately or legally provide a corporate resolution without a corporation. Consequently, we need to revive this company so that the assets may be

claimed for all the shareholders of Porcupine Goldtop Mines Limited.

0920

In terms of the compendium, it provides some responses to the objection letter. Mr. Sergio was seeking clarification on some of the points of objection made by another individual and another corporation. If I may address those points of objection in order, and hopefully answer Mr. Sergio's question as to why there is an objection.

The first point states that there is uncertainty on the part of the objector as to whether the estate of Hugh Harold Sutherland indeed owns any shares in the company. I believe the compendium addresses that by providing a notarized copy of the records and accounts of the estate of Hugh Harold Sutherland, as prepared by Guaranty Trust Company. That unambiguously demonstrates that indeed Hugh Harold Sutherland owned a share of the company, and therefore has standing to revive the corporation. As the legislation states, a proponent of a bill or a person seeking to revive needs only be a shareholder of the company.

The objection point also comments as to majority ownership of the company, and I want to be very clear that it is not—and Mr. Zimmer is clear as well that he wants to make sure of that—put to this committee or to the Legislature that the purpose of this revival is not, in any way, to make any determination, adjudication or assessment of the ownership of this company. It is merely to revive the company, in the same condition it was in 1978, so that it may pursue the assets that are held by CIBC Mellon.

To undertake this process, I have put together all the records that are available, and notwithstanding what the objector says in his letter of claim that the files were lost in the 1990s, indeed, I have the original letters' patent, I have the original name change documents, I have original share certificates, I have the land transfer records—the records are intact; they're just not in the hands of the person who's objecting because it's not relevant to the committee.

Indeed, the organization has—the financial records have been put together as part of this revival process. It is necessary to receive permission from all the ministries to which the legislative counsel puts the issues, and the Ministry of Finance requires and demands that the corporation taxes be paid to date, which they are. The financial filings have been undertaken. These are the same financial filings that will be presented to the Ontario Securities Commission, once revival is accomplished, so that we may indeed proceed with their organization.

On the second point, the Ontario Securities Commission may or may not have had a conversation with the person who is objecting. The Ontario Securities Commission, indeed, had many conversations with me as well. However, I don't think those are relevant, again, as part of the process of reviving this organization. Ms. Klein, the legislative counsel, conferred with all the min-

istries and agencies and requested commentary from the Ontario Securities Commission as to the appropriateness, applicability or relevance of reviving this organization. You will see that the file is replete with information. The OSC has declined to comment, and as they have declined to comment, I don't see where any hearsay evidence or any ability to validate or corroborate the hearsay evidence has any merit.

As to the third point, I am thrilled to change the name of the company back to its original 1936 name, thus unencumbering organizations of the same name. That said, in an unusual coincidence, I own a company called General Securities Corp., which is listed in some of the documents here, which is one of the founding companies of my grandfather. Indeed, in 2003, another company was incorporated in Ontario called General Securities Corp. So there are two companies in Ontario: one is called General Securities Corporation Ltd.—that's mine, incorporated in 1920—and one is called General Securities Corp., and that was incorporated in 2003 by a gentleman who lives in Etobicoke.

Mr. Sergio, why are there objections? I don't know why there are objections. I don't know why any person who would purport to be a shareholder of this company would want to not revive the company so that it could claim the assets. Given that there are just shy of \$200,000 worth of assets at CIBC Mellon, I cannot think of why any shareholder would want to deny other shareholders access to those assets, or to allow this corporation to be revived to re-undertake mining exploration in Ontario.

I'm happy to take questions.

The Chair (Mr. Michael Prue): Is there anything the solicitor would like to add to that?

Ms. Diane Brooks: No. Mr. Sutherland has done a good job of the facts.

The Chair (Mr. Michael Prue): Okay, then. There will be no questions first. We have to hear all the parties before there are questions. Any other interested parties to this matter?

Take a seat beside Mr. Zimmer. Could you state your name for the record, sir?

Mr. Timothy Pinos: Good morning, Mr. Chair. My name is Timothy Pinos. I am counsel to a company called Earth Sciences International Ltd., a shareholder of the dissolved company Porcupine Goldtop Mines Ltd. I am the person who submitted the objection letter on behalf of Earth Sciences International.

The Chair (Mr. Michael Prue): The floor is yours.

Mr. Timothy Pinos: I think what I would do, having heard the response—certainly, when my client saw the ad in the newspaper, they had not been advised or given any information about the proposal to revive Porcupine Goldtop. Having approached the securities commission just last year and told there's no point in reviving it, we wouldn't consent to reviving it. There was a cease trade with respect to the company in 1977 and we're really not interested in co-operating with the reactivation of this company. Then, to see an ad by persons who are the representatives of an estate, who my client understands

are not shareholders of the company, caused the letter of objection.

Having heard Mr. Sutherland and his counsel, I think I can understand now why the application for revival has been made. I think it's important, though, with respect to the bill before you—and I know there's a clause in the bill that talks about the fact that the bill is not intended to make a statement with respect to any ownership of assets of the corporation. I would suggest that that be expanded to the assets or the shares of the corporation because I am sure, although there is no litigation right now with respect to the company because it has been dissolved and has no standing either as a plaintiff or a defendant in a lawsuit, there may well be disputes in the future with respect to the ownership of the company and ultimately entitlement to the assets that are stated to be out there and available to the company. In that respect, if that were the pleasure of the committee, I would restrict my comments to that request to ensure that on a go-forward basis this company is neutral and that it would be up to any future court or agreement of the interested parties to deal with the company in the future.

Mr. Michael Prue: This may shorten the proceedings quite a bit. You are not objecting provided that the applicant would agree to amend his application to read “assets or the shares”?

Mr. Timothy Pinos: That's correct.

The Chair (Mr. Michael Prue): And other than that, you would not object.

Mr. Timothy Pinos: Having heard the information that's been produced in response to the objection, which my client was unaware of, as to the rationale for the revival of the company, I would limit my objection to that.

The Chair (Mr. Michael Prue): In order to try to facilitate this, I am looking at counsel for the applicant and she seems to be nodding in approval.

Ms. Diane Brooks: Yes. The amendment to that section 3 would be acceptable to the applicant.

The Chair (Mr. Michael Prue): All right, then, I'm going to go from this point now to questions. First of all, to the parliamentary assistant, if there are any comments from the government, having heard what was said here today.

Mr. Mario Sergio: First of all, based on this last information, are we allowed to deal with the bill presently, as we have it, on an assumption that it will be amended by the two parties?

The Chair (Mr. Michael Prue): No. It would take an amendment from this committee. Somebody would have to move that amendment.

Mr. Mario Sergio: Without any comments from our ministry staff?

The Chair (Mr. Michael Prue): If you want an adjournment to the next date to do that, that's well within the purview of this committee.

Mr. Mario Sergio: Yes. I know what it means for the applicants, but given the situation, I think it would be appropriate if we had proper recommendation and review

from the ministries. If that is the case, then they would be welcome to bring it back to the next meeting with the recommendation acceptable to both parties.

0930

The Chair (Mr. Michael Prue): Before we get to that, we need to know whether there are questions. The people are here today, and we need to do that. When we get to the procedure—which won't take very long—on the vote, if there is a motion to adjourn to the following date—

Mr. Mario Sergio: I have a quick question.

The Chair (Mr. Michael Prue): Okay, another question from Mr. Sergio.

Mr. Mario Sergio: Mr. Pinos, I believe you said?

Mr. Timothy Pinos: Yes.

Mr. Mario Sergio: Is there any court case pending, under any circumstances, with respect to this application at this time.

Mr. Timothy Pinos: Not with respect to this particular application, no.

Mr. Mario Sergio: Okay, thank you. No more questions.

The Chair (Mr. Michael Prue): Further questions?

Mr. Mike Colle: I just had another reference here, and I hope that we also get information from the clerk and legal counsel, too, in terms of this amendment and whether or not it's within our jurisdiction to undertake considering this amendment and what the implications of the amendment are.

The Chair (Mr. Michael Prue): The clerk and legal counsel have heard that. Is there any objection to providing that?

Ms. Susan Klein: No, that's fine.

The Chair (Mr. Michael Prue): It's fine? Okay. Any questions? Mr. Zimmer? No, no, here, I need to know. This is as the sponsor of the bill that you're sitting here, so—

Mr. David Zimmer: I am speaking as the sponsor.

The Chair (Mr. Michael Prue): All right, go ahead.

Mr. David Zimmer: I am not speaking with regard to any issues other than my sponsorship. I have sponsored a bill. You have it in the form that it's in front of you. I would ask the clerk and the legislative counsel: If there's a suggestion that that bill be amended, then it seems to me that I have to make a decision whether I'm prepared to sponsor the bill, as amended. I have sponsored the bill that's before you.

The Chair (Mr. Michael Prue): I don't think—with the greatest of respect, as the sponsor, you are the vehicle that brought the bill before the committee.

Mr. David Zimmer: In the form that it is before the committee.

The Chair (Mr. Michael Prue): Yes, but the committee has free range to amend any bill and then report it to the House. As a courtesy, we will tell you what the committee does, or if the matter is adjourned, you are free to attend the committee on the next date, or free to stay here if we deal with it today. You were the vehicle, and I thank you for being the vehicle.

Mr. David Zimmer: Yes. But I'd be interested in what the—I mean, it's a point that I had not turned my mind to before attending this morning. I'd be interested in what the legal opinion on my point is.

The Chair (Mr. Michael Prue): I understand, but I think the committee cannot be encumbered. We have the authority to make amendments and to report those amendments to the House.

Interjection.

Mr. David Zimmer: Thank you, Mr. Chair.

The Chair (Mr. Michael Prue): Any other questions?

Mr. Paul Miller: Thanks, Mr. Chairman. Just for my own curiosity: The company was dissolved in roughly 1978, you said.

Mr. Hamish Sutherland: In 1978.

Mr. Paul Miller: In 1978, okay. So 30 years later, why are you bringing this forward now? I'm curious that you said that there was missing documentation that appeared in this company through some accident or something—these files showed up. How did you verify that these files were accurate and that they were written similarly to the originals, or, if not the originals—I'm curious.

All of a sudden, 30 years later, you're coming out of the woodwork, through the process of an estate executor. How many shareholders are there? I'm asking too many questions at once, probably. How many shareholders are there? What is your role? Are you a shareholder? What is your role, and why have you taken it upon yourself to bring this forward 30 years later?

Mr. Hamish Sutherland: There are a lot of questions in there, and I will try to provide an answer to all of them. Hugh Harold Sutherland was born in 1867. He started the company when—

Interjection.

Mr. Hamish Sutherland: Sorry?

Mr. Mike Colle: Go ahead.

Mr. Hamish Sutherland: He was born in 1867, and he started the company in 1936, so when he started the company, he was already 70 years old. He lived to be 104 years old, in 1972. In 1950, when he bought shares in the original companies, he was by then 86 years old. So the notion of losing documents in his office—he made the share purchase and acquisitions of the original shares.

Some detail: He bought shares in the two companies in 1951 in his own name, in the name of Porcupine Goldtop Mines Ltd., and in the name of Bermead Mining Corp., one of his other companies, and in the name of Hughcliff Mines. So he had four companies in which he bought these shares.

Over the period of 30 years of his aging, the actual transaction records of Porcupine Goldtop Mines Ltd. buying the share certificates were lost. They just vanished. They appeared again in 2006 because the share transfer records of BlackRock Ventures Inc. retained the ownership name of the company that bought them in 1951. That's how it arose.

Mr. Paul Miller: Okay, but how did those records appear with the reapplication of this new company in

2006? How did the original documentation show up with these guys? Everything went missing, and all of a sudden this documentation shows up with these guys. Was it because they reapplied? How did it show up there?

Mr. Hamish Sutherland: I guess as a metaphor, as an example, in Canada every year, some \$15 million is escheated to the crown through bank accounts that are lost. It's a pretty simple question: How is it possible that people can open a bank account and forget? The same thing arises: How is it possible that a company or an individual who owns a company—that's my grandfather, Hugh Harold Sutherland, who owned Porcupine Goldtop Mines Ltd.—could have bought shares and simply lost records of them? Well, it turns out it's actually fairly easy.

How did the records arise? Any publicly traded corporation, of which BlackRock Ventures is one, keeps proper and extensive documentation through their share transfer agent, which was Guaranty Trust Co. of Canada, which moved on to Computershare and then became CIBC Mellon. The discovery of these assets arose because in 1951, when my grandfather bought these shares, I wasn't born.

Mr. Paul Miller: I was.

Mr. Hamish Sutherland: Then I should ask you next time if you remember. It arose again because these assets only came into play because Shell Canada bought BlackRock. If BlackRock had continued on its merry way and bought Shell, again, this would all be buried; this would never have come up.

Ms. Brotén, you've got a few more questions, I think.

Mr. Paul Miller: I'm just trying to get my answers. Is there a rush here?

Anyway, go ahead.

Mr. Hamish Sutherland: The other question is, what is my role, why am I here? My grandfather started the company in 1936. He ran and managed the company until his death, in 1972. When he died, there was an estate, of which there were three executors: a member from Fasken and Calvin, a cousin and the Guaranty Trust Co. of Canada. Over the years, the estate has been managed and administered. Documentation was put together wherein I became an executor of that estate, and the estate, i.e., Hugh Harold Sutherland, retains the ownership of this company called Porcupine Goldtop Mines Ltd., thus the estate—

Mr. Paul Miller: So you did research to find out where you were at and what was going on, and basically—

Mr. Hamish Sutherland: I have all the files and records from—

Mr. Paul Miller: Yes. What I'm asking is, what tweaked your interest all of a sudden on this?

Mr. Hamish Sutherland: The letter from Georgeson shareholder limited saying, "I have 200,000 of your dollars."

Mr. Paul Miller: Okay. Thank you.

The Chair (Mr. Michael Prue): Ms. Brotén.

Ms. Laurel C. Broten: Thank you very much. This is bringing me back to my days as a corporate litigator. I can sense Mr. Miller might need to go back to law school to really get entrenched in some of these very riveting issues.

We are, as I understand it right now, examining whether or not this issue should be adjourned for the committee to seek advice with respect to the amendment.

The Chair (Mr. Michael Prue): No, we are not. There is no motion on amendment.

Ms. Laurel C. Broten: Can I move—

Mr. Mario Sergio: We already have a motion.

Ms. Laurel C. Broten: You have the motion.

The Chair (Mr. Michael Prue): And I'm going to entertain—the way the committee operates, quite frankly, is there is a set procedures that we have to follow. One of those is to question. As soon as we finish the questions, I will entertain any and all motions.

Mr. Mike Colle: I thought there was a motion to adjourn.

Ms. Laurel C. Broten: We thought that the motion to adjourn had been made.

The Chair (Mr. Michael Prue): No.

Interjections.

The Chair (Mr. Michael Prue): I indicated that I will not entertain motions until we get to the point of motions. We have people here; this is an opportunity to ask them questions. Then we are going to get into debate on the matter. It's pretty simple.

Mr. Mario Sergio: That was my intent, Mr. Chair, to move a motion to defer the application until the application comes back with the proper amendment, which has been suggested by both parties.

The Chair (Mr. Michael Prue): Yes, and I'm going to recognize you first.

Mr. Mario Sergio: That is my motion, and if that raises any more debate, I think it's unnecessary at this stage, Mr. Chairman. I think it's appropriate to see that the application comes back with the duly amended clauses. Then, if there are more questions at that time, so be it, but I think it's futile at this stage.

Mr. Paul Miller: On a point of order, Mr. Chair: I can't disagree more. The whole process here in this committee is to deal with applications. Whether you put it on after it's been amended—we've heard the amendment, they both agreed to the amendment, and to do some preliminary or background discussions at this point is very valuable to the future meeting. I don't know why anyone would disagree with that. And that's part of law study, too.

Mr. Mario Sergio: No. Mr. Chairman, with all due respect, to clarify once again, even though we have heard the amendment as suggested, we would like to see it on paper and have the ministry have an opportunity to review it and bring it back. So there's a motion to defer it.

The Chair (Mr. Michael Prue): I am in agreement. I'm just trying to find out whether there are any other questions today. I'm recognizing you next. If everybody stops talking, I'm going to do precisely what you asked. Are there any other questions of the committee? There are no other questions. Please. Now the floor is yours. It's as simple as that.

Mr. Mario Sergio: I have made my motion, Mr. Chair—

The Chair (Mr. Michael Prue): Now make it; please make it now.

Mr. Mario Sergio: —to defer the application.

Mr. Paul Miller: You want to make a motion without us having any input.

The Chair (Mr. Michael Prue): Please make the motion. If the motion is to defer this application to a subsequent meeting—

Mr. Mario Sergio: To defer the application to a subsequent meeting until the amendment is brought properly in front of this committee.

The Chair (Mr. Michael Prue): We have a motion duly made. Is there any discussion on the motion? Seeing no discussion on the motion, all those in favour of the motion? Any opposed? Carried.

This matter will be put over to a subsequent meeting at the call of the Chair. We will notify all parties of the time and date. It will likely be in this room, but it could be in another room in the Legislature. We will hopefully be able to resolve and finish the matter at that time.

Interjection.

The Chair (Mr. Michael Prue): There is still one item left for the committee. Members, there's still one very small housekeeping matter that—

Mr. Gerry Martiniuk: It's not on the agenda.

The Chair (Mr. Michael Prue): Madam Clerk, if you could explain the nature of the paper. I just want to make sure that people have it, that's all. There's going to be no discussion and no votes on it. There was a paper prepared—

The Clerk of the Committee (Ms. Sylwia Przezdziecki): Further to a request that the committee made at its last meeting for a paper relating to the protections of members, a paper has been distributed to you. If members have any more specific questions beyond what's presented in the paper, please address them to me.

The Chair (Mr. Michael Prue): That's all. There's no vote.

Mr. Mario Sergio: Thanks for bringing it to our attention.

The Chair (Mr. Michael Prue): Does everybody have the paper? I just want to make sure. Fine.

There being no other matters before this committee today, the meeting is adjourned.

The committee adjourned at 0940.



CONTENTS

Wednesday 5 November 2008

Master's College and Seminary Act, 2008 , Bill Pr10, <i>Mr. Delaney</i>	T-55
Mr. Kim Craitor, MPP	
Mr. Emmett Connolly	
Mr. William Morrow	
Mr. Don Ariss	
Porcupine Goldor Mines Limited Act, 2008 , Bill Pr12, <i>Mr. Zimmer</i>	T-56
Mr. David Zimmer, MPP	
Ms. Diane Brooks	
Mr. Hamish Sutherland	
Mr. Timothy Pinos	

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ISSN 1180-4319

Legislative Assembly of Ontario

First Session, 39th Parliament

Official Report of Debates (Hansard)

Wednesday 19 November 2008

Standing Committee on
Regulations and Private Bills

Assemblée législative de l'Ontario

Première session, 39^e législature

Journal des débats (Hansard)

Mercredi 19 novembre 2008

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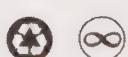
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Publié par l'Assemblée législative de l'Ontario

LEGISLATIVE ASSEMBLY OF ONTARIO

**STANDING COMMITTEE
ON REGULATIONS
AND PRIVATE BILLS**

Wednesday 19 November 2008

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

**COMITÉ PERMANENT DES
RÈGLEMENTS ET DES PROJETS DE LOI
D'INTÉRÊT PRIVÉ**

Mercredi 19 novembre 2008

The committee met at 0902 in room 228.

**PORCUPINE GOLDR
MINES LIMITED ACT, 2008**

Consideration of Bill Pr12, An Act to revive Porcupine Goldtop Mines Limited and to change its name to Porcupine Goldor Mines Limited.

The Chair (Mr. Michael Prue): We will call the meeting to order. We have before us Bill Pr12.

On the last occasion we heard from deputants, and there was a request made that we adjourn on that date in order that the government members could caucus to make a determination. It is now back to the portion in the agenda where we have—I guess I should first ask the parliamentary assistant if there are any comments from the government.

If the deputants wish, they can come forward, but I don't know that there's anything to be done today. But if you wish, okay.

Mr. Mario Sergio: Maybe they can tell us, Mr. Chairman, if they worked out any differences.

The Chair (Mr. Michael Prue): I am given to understand that the objector is not here today. He is aware of it but is no longer objecting.

Mr. Mario Sergio: All right. Thank you.

The Chair (Mr. Michael Prue): So I'm simply asking. You were the one who requested the adjournment.

Mr. Mario Sergio: Okay. No, that's fine.

The Chair (Mr. Michael Prue): So we're ready to proceed now.

Mr. Mario Sergio: Yes. Indeed, I am very pleased that the applicant has been able to work out the difficulties that they had with the application. As such, all the outstanding issues seem to be dealt with. I propose to move the application, as it has been proposed and amended.

The Chair (Mr. Michael Prue): You have to move an amendment if you're making one.

Mr. Mario Sergio: I move that section 3 of the bill be amended by striking out "the assets of either the corporation or the estate of Hugh Harold Sutherland" and substituting "the assets or the shares of either the corporation or the estate of Hugh Harold Sutherland."

The Chair (Mr. Michael Prue): Is there any discussion on the motion? Mr. Miller.

Mr. Paul Miller: Just a quick comment, Mr. Chair.

I'd like to thank Mr. Sutherland. I'm contacting all my distant relatives and hoping that they come up with something that I can tap into. Thanks very much for the tip. I'm sure there's something out there somewhere for me. Thank you.

Laughter.

Mr. Kim Craitor: He's got a sense of humour.

Mr. Bas Balkissoon: He's always looking out for himself.

The Chair (Mr. Michael Prue): Any other discussion on the motion? No other discussion on the motion? All those in favour of the motion, please signify. Opposed, if any? Carried.

Are the members ready to vote? Okay. I just have to go down through this.

Shall section 1 carry? Carried.

Shall section 2, as amended—

Interjections.

The Chair (Mr. Michael Prue): No, it's not amended?

Mr. Paul Miller: It's not amended.

The Chair (Mr. Michael Prue): I'm sorry, it's not amended. Okay, that was already done.

Shall section 3, as amended, carry? Carried.

Shall section 4 carry? Carried.

Interjection.

The Chair (Mr. Michael Prue): Yes, they all said, "Carried." Yes, they've all carried. On the transcript? I believe so. I'm going to rule that they have, and I hope they have. I was just asked the question.

Shall section 4 carry? Carried.

Shall section 5 carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill, as amended, to the House? Carried.

All right., I thank all parties for being present. The bill will be reported to the House in due course. The meeting is adjourned.

The committee adjourned at 0906.

CONTENTS

Wednesday 19 November 2008

Porcupine Goldor Mines Limited Act, 2008, Bill Pr12, <i>Mr Zimmer</i>.....	T-63
Mr. David Zimmer, MPP	

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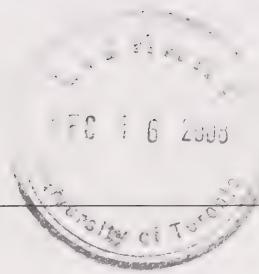
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ISSN 1180-4319

Legislative Assembly of Ontario

First Session, 39th Parliament

Official Report of Debates (Hansard)

Wednesday 3 December 2008

Standing Committee on
Regulations and Private Bills

Assemblée législative de l'Ontario

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Mercredi 3 décembre 2008

The committee met at 0902 in room 151.

**ABLE INSURANCE
BROKERS LTD. ACT, 2008**

Consideration of Bill Pr19, An Act to revive Able Insurance Brokers Ltd.

The Chair (Mr. Michael Prue): We'll call the meeting to order. I'm going to call the bill. The item before us is Bill Pr19, An Act to revive Able Insurance Brokers Ltd. This bill is being sponsored by Vic Dhillon, who is here. Mr. Dhillon, could you also have the applicant introduce himself for the agenda?

Mr. Mohinder Pharwaha: Mohinder Pharwaha.

The Chair (Mr. Michael Prue): You are the applicant or the applicant's agent?

Mr. Mohinder Pharwaha: I'm the applicant's representative.

The Chair (Mr. Michael Prue): All right. Thank you. Mr. Dhillon, the floor is yours.

Mr. Vic Dhillon: Thank you very much, Chair. Mr. Pharwaha came to me and explained there were some inadvertent errors in closing the wrong company because the companies had very similar names, one with an "s" and one without an "s." He had made that error on behalf of his client and has presented all the documents required to have the company revived. There are no taxes owing, we've been given clearance from the Ministry of Government Services and have a certificate from the Ministry of Finance. We're here to request the committee's consideration in reviving Able Insurance Brokers Ltd.

The Chair (Mr. Michael Prue): Thank you. Mr. Pharwaha, do you have any comments to make?

Mr. Mohinder Pharwaha: No, thank you, Chair. I don't have any comments except that we just want to revive the company.

The Chair (Mr. Michael Prue): Okay. Are there any interested parties to this application? Is there anyone else in the room who wishes to speak to this, any interested parties?

Mr. Vic Dhillon: I don't believe so, Chair.

The Chair (Mr. Michael Prue): But I have to ask, and there are not.

Mr. Vic Dhillon: Yes.

The Chair (Mr. Michael Prue): Parliamentary Assistant, are there any comments from the government?

Mr. Mario Sergio: There are no comments, or there is no position from any of the government ministries, Mr. Chairman. I'd like to thank the work of the member for Brampton West, Mr. Vic Dhillon, on behalf of the applicant for spearheading the application. I have no problem with the application and I move approval.

The Chair (Mr. Michael Prue): All right. Then we have questions from committee members. Are there any? I saw Mr. Miller first and then Mr. Martiniuk.

Mr. Paul Miller: Basically, I don't have any problem with it, but it seems like we're always getting screw-ups in this committee. I don't know what these lawyers and accountants are doing. Maybe they should go back to school, because they keep screwing up these applications, or they don't read the updated legislation.

I'm making a suggestion here that this committee should send out updated legislative changes on a regular basis or at least post them on the Internet so that lawyers and accountants can get the updated version of what's going on here, because we're constantly getting these "Didn't apply," "Didn't get the information," "Didn't do this," "Didn't do that." I think it's incompetent and this thing could run a lot smoother. I'm just suggesting that maybe we could give constant updates of any legislative changes to lawyers and accountants, and it might make this committee run a lot smoother.

The Chair (Mr. Michael Prue): The parliamentary assistant, I'm sure, will take that back.

Mr. Mario Sergio: There were some suggestions—I don't know where they came from—that maybe we should start charging and maybe we would get fewer applications of—

Mr. Bas Balkissoon: The lawyers will still make money—

Mr. Paul Miller: I like that.

Mr. Bas Balkissoon: They'll charge the client.

Mr. Mario Sergio: I can appreciate that. I hear the member, and I totally sympathize. I think a while ago, Mr. Chairman, we did request a report with respect to some of the applications, but the fact is, once the application reaches this committee we have no control over the actions of the lawyers. I appreciate the concern.

The Chair (Mr. Michael Prue): That's correct. Mr. Martiniuk.

Mr. Gerry Martiniuk: I understand that if a company applies for a voluntary termination—I can see that there

could be problems arising from that and it should come before this committee. I cannot see why we are dealing with companies that have, through inadvertence—whether it's the lawyer or the individual, it matters not—failed to file, and we are still dealing with it. Why isn't that an administrative matter?

I think this committee has an obligation. The expense is twofold. Number one, it's the additional expense to the individual to put it together; it would be a lot cheaper through an administrator. Secondly, this committee itself—why are we, at great expense, dealing with matters that arise through a mistake or inadvertence? It seems so illogical to me. I can see no ramifications arising, in cases of this kind, where there would be injury to any other party.

I think this committee has an obligation, I really do, to consider inadvertent matters of this kind, with a formal recommendation made to the minister that where inadvertence has occurred—in other words, omission rather than a positive step—this should be administration. I think we have an obligation because this is going on far too often.

The Chair (Mr. Michael Prue): Just for the record, the committee did send such a letter to the minister earlier in the session. Perhaps the parliamentary assistant can follow that up, because this suggestion has been made on other occasions.

I have Mr. Ruprecht and then the parliamentary assistant.

Mr. Tony Ruprecht: Thank you, Mr. Chair. As you probably realize, I've been on this very committee since 25 years ago, and recommendations of this nature are nothing new, Mr. Martiniuk. You struck a bull's eye this morning. It's obvious what we have to do here. It should be a matter of procedure, and this thing should be streamlined—it's obvious. At that point, the Conservatives struck a special committee to in fact "streamline" the process and, for some strange reason, not much is happening.

Mr. Chair, through your good offices, if you are successful at this, that would be great. Certainly, on this side of the committee, we would agree with all of that.

Having said that, I see that MPP Vic Dhillon is supporting this bill and, for the record, I'd like to say that if he supports this bill that's good enough for me and I'll support it as well.

Mr. Paul Miller: Oh, come on, that's just being kissy.

Mr. Tony Ruprecht: I'd do the same for you.

Mr. Paul Miller: Would you? Thanks, Tony.

The Chair (Mr. Michael Prue): The parliamentary assistant.

Mr. Mario Sergio: Mr. Chairman, just for the sake of commenting, and I hope this does not have any bearing on the application that is in front of us here today, but I hear the concern of the members and I can truly sympathize and appreciate. We have independent agencies, both for real estate and insurance brokers as well. I think those vehicles are there and were created strictly and exactly to do that. If you will, maybe it's a way of circumventing the other process. I have taken it upon myself to speak to the minister on the matter and, hopefully, soon we will have an answer and maybe some direction may be coming forth from the ministries. But for the sake of the application today, we'll deal with it and I will approve of it, Mr. Chairman.

The Chair (Mr. Michael Prue): No other questions? Are the members ready to vote? All right.

Shall section 1 carry? Carried.

Shall section 2 carry? Carried.

Shall section 3, the short title, carry? Carried.

Shall the preamble carry? Carried.

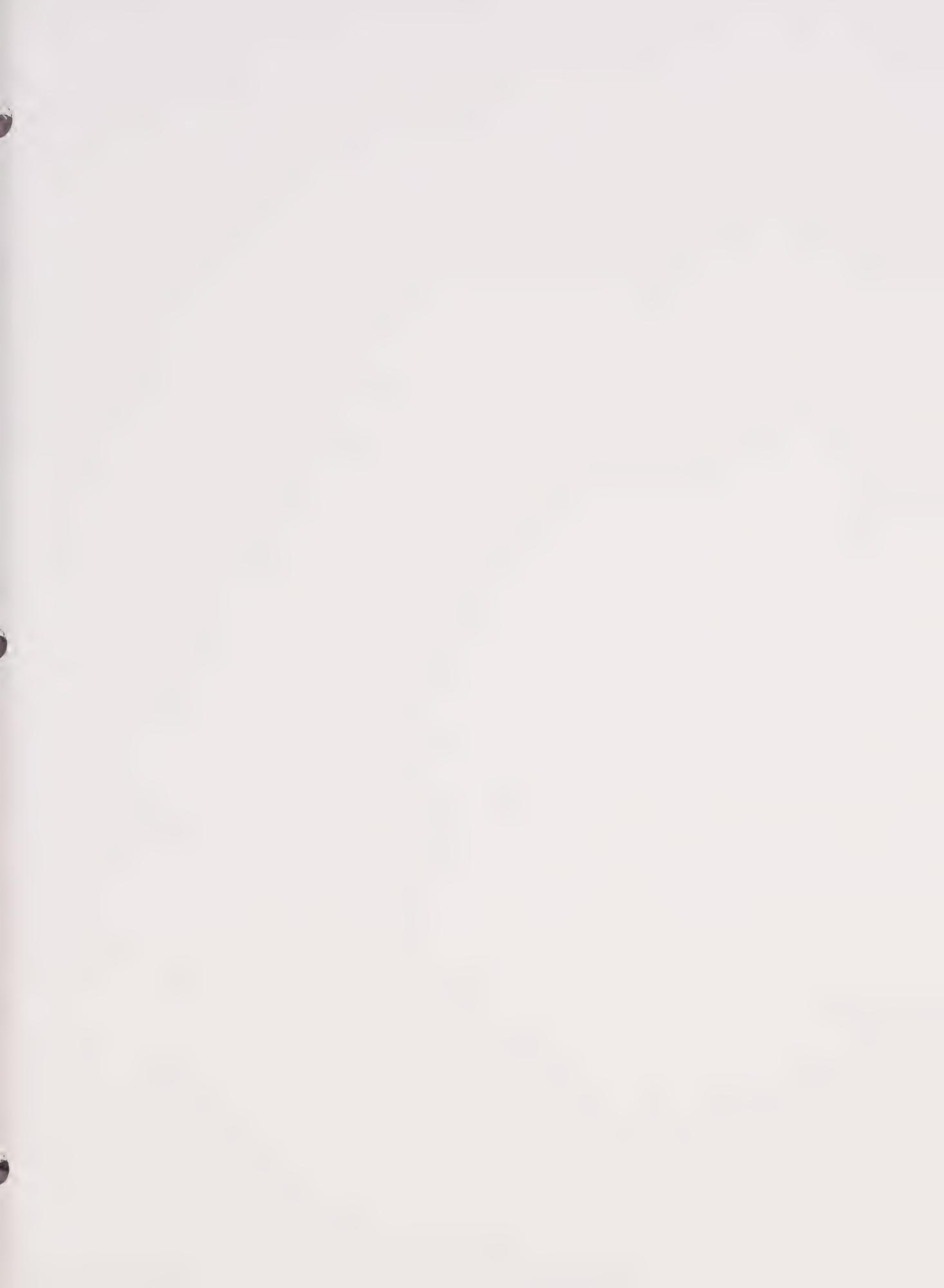
Shall the title carry? Carried.

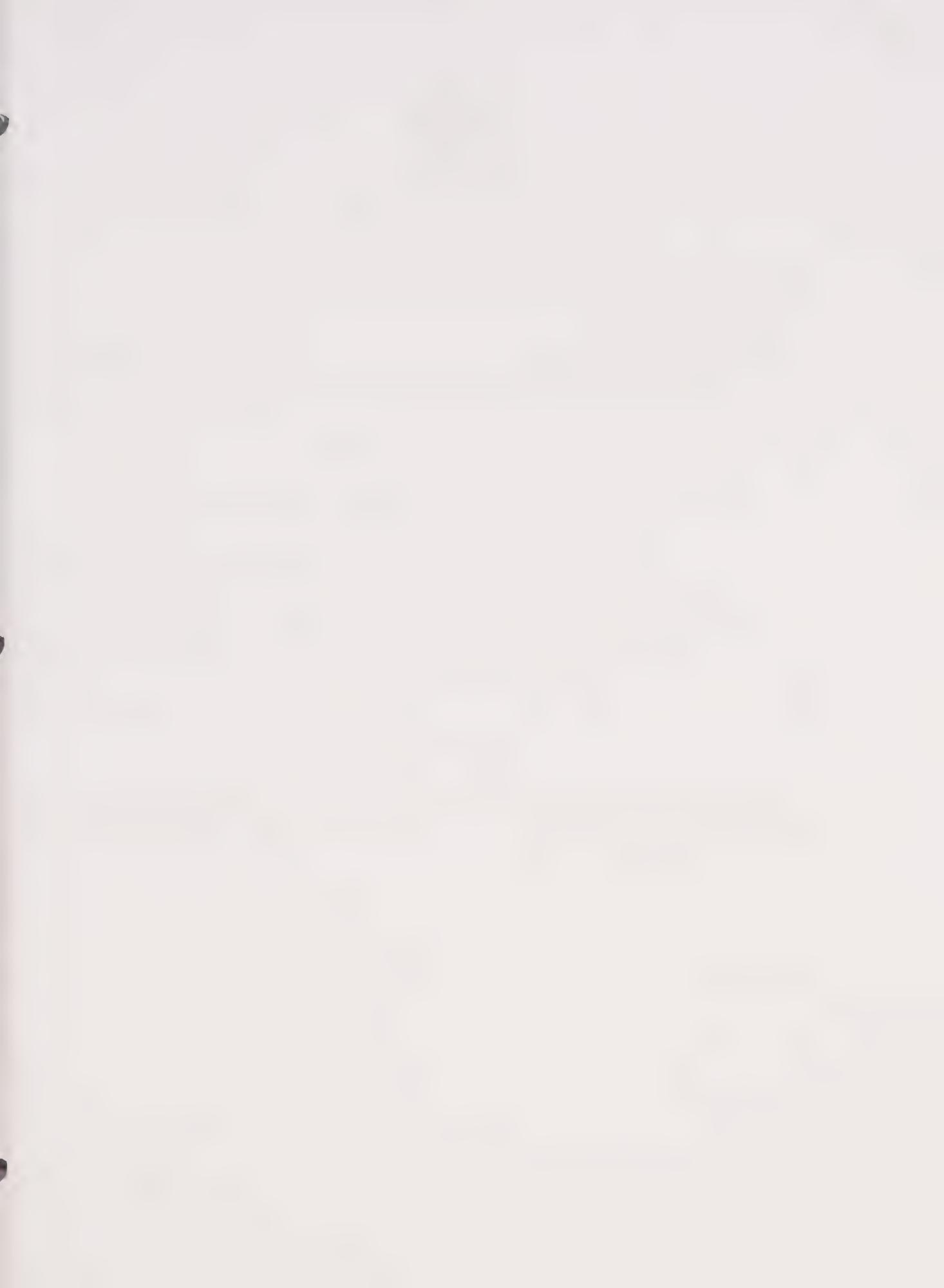
Shall the bill carry? Carried.

Shall I report the bill to the House? Carried.

I thank everyone for attending. There's no other item on the agenda. I adjourn the meeting.

The committee adjourned at 0911.





CONTENTS

Wednesday 3 December 2008

Able Insurance Brokers Ltd. Act, 2008, Bill Pr19, Mr. Dhillon.....	T-65
Mr. Vic Dhillon, MPP	
Mr. Mohinder Pharwaha	

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T-12

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ISSN 1180-4319

Legislative Assembly of Ontario

First Session, 39th Parliament

Official Report of Debates (Hansard)

Wednesday 10 December 2008

Standing Committee on
Regulations and Private Bills

Assemblée législative de l'Ontario

Première session, 39^e législature

Journal des débats (Hansard)

Mercredi 10 décembre 2008

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règlements et des projets
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Service du Journal des débats et d'interprétation
Salle 500, aile ouest, Édifice du Parlement
111, rue Wellesley ouest, Queen's Park
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Téléphone, 416-325-7400; télécopieur, 416-325-7430
Publié par l'Assemblée législative de l'Ontario

LEGISLATIVE ASSEMBLY OF ONTARIO

**STANDING COMMITTEE
ON REGULATIONS
AND PRIVATE BILLS**

Wednesday 10 December 2008

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

**COMITÉ PERMANENT DES
RÈGLEMENTS ET DES PROJETS DE LOI
D'INTÉRÊT PRIVÉ**

Mercredi 10 décembre 2008

The committee met at 0903 in room 151.

**JOSEPH AND WOLF LEOVIC JEWISH
COMMUNITY CAMPUS ACT, 2008**

Consideration of Bill Pr20, An Act respecting the Joseph and Wolf Lebovic Jewish Community Campus.

The Vice-Chair (Mr. Paul Miller): I call this meeting to order. Welcome, everyone. Today, we'll be dealing with the next order of business, Bill Pr20, An Act respecting the Joseph and Wolf Lebovic Jewish Community Campus.

The sponsor is Mr. Sorbara, but Mr. Colle is filling in for Mr. Sorbara and he'll be sponsoring the bill. Would the applicants please come forward? Could you, sirs, introduce yourselves to the committee?

Mr. Stephen Adler: Thank you, Mr. Chair. My name is Stephen Adler. I'm the director of public policy and governmental affairs for the UJA Federation of Greater Toronto. I'm joined today, to my left, by David Sadowski, who is CEO of Jewish Community Properties, and, on my far left, David Bronskill, who is our counsel from Goodmans.

Thank you for the opportunity to be here today.

The UJA—

The Vice-Chair (Mr. Paul Miller): Actually, could I cut you off?

Mr. Stephen Adler: Yes.

The Vice-Chair (Mr. Paul Miller): It's not quite your turn, but we're getting there.

Has the sponsor any comments? Mr. Colle?

Mr. Mike Colle: Yes, Mr. Chairman. As you know, Mr. Sorbara is unable to be here because of the horrendous accident up on the 401, so I will gladly sponsor the bill; I'm familiar with it. I'm also familiar with the campus and the great work of the UJA, the United Jewish Appeal, and I'm here as the sponsor.

The Vice-Chair (Mr. Paul Miller): Thank you, Mr. Colle. Now, the applicant, it's your turn.

Mr. Stephen Adler: I jumped the gun and I apologize. In a second, I'll turn it over to my colleague Mr. Sadowski, but I just wanted to thank all members of the House, representing all parties, for your continued support to the Jewish community and to the UJA for the work that we do.

David?

Mr. David Sadowski: Thank you, Stephen. Good morning, ladies and gentlemen. Just briefly, had I known you had all these wonderful screens, I would have brought my shameless PowerPoint presentation and shown you, a little more accurately, the campus that's described in the bill.

Two comments, if I may. Firstly, what we are seeking here today is something that has been done in the past. It's been done in the city of Toronto, other municipalities throughout the province, and actually in the city of Vaughan previously with respect to the Reena organization, which deals with developmentally challenged adults, principally.

We are seeking this exemption for the campus as described in the bill. It represents about 50 acres of land in the city of Vaughan, north of Rutherford, off Bathurst. The campus is designed to include a number of buildings that are all principally for community use. Currently, we have built a high school. We have serviced all the land and we are about to start construction on a community centre and a special-needs housing project, both of which are scheduled to begin next year. The balance of the campus is zoned, or designated, for elementary schools; in some cases, synagogues; and other long-term-care and special-needs housing initiatives as may develop over a number of years.

Our time horizon for developing this property is probably about 20 years. In spite of the economic times we're going through now, it doesn't affect us except in a moment; our long-term horizon is much greater than that.

One of the wonderful things about this development is that it has been done with the city of Vaughan, and one of the reasons they have been so supportive of it is that we are seeking, at every opportunity, shared-use agreements with them. If I may just point out one quickly, in the case of the development of our community centre, it is adjacent to a municipal park, which allows our high school and our camps to use the park during the day. The quid pro quo for that is that the community centre is available to all community groups in the city of Vaughan, regardless of background, and at the same rate that they would pay in any community centre in the city of Vaughan. In fact, we make the space available on a gratis basis to the city of Vaughan for a number of dates during the year.

These are complex agreements with municipalities. We always try to pull one out of the drawer, but they're

never there. We've worked very closely with them over the years, and I think it's an important initiative.

Our community centres, even though they're built by the UJA Federation, are open to everyone. There are no membership restrictions. In fact, at our community centre at Bloor and Spadina, which some of you may be familiar with, over 50% of that membership are not members of the Jewish community. So they're open, and we look forward to embracing all members of the community.

Thank you.

Mr. David Bronskill: Thank you, Mr. Chair—

The Vice-Chair (Mr. Paul Miller): Could you introduce yourself?

Mr. David Bronskill: Yes. David Bronskill from Goodmans. Permit me just to add three technical things to the presentation.

The first is our thanks to staff in the clerk's office. Both the clerk and legislative counsel have worked very hard to help us craft the bill and bring it forward, and we are extremely appreciative of their time and their expertise.

The second thing is, part of that work was done to ensure that the bill complies with the guidelines that have come forward through the Ministry of Finance. We've got the support of both municipalities. They understand what we're asking for here today. We will, hopefully, with the support of the Legislature, be going back to those municipalities for the implementing bylaws early in the new year.

The third thing I would add is simply that we have worked out, with the clerk's office, three amendments to the draft bill that is before you. We are in complete and full support of those amendments.

Certainly, the bill benefits from these amendments, and we are quite happy to support them if they are brought forward here today as part of this committee meeting.

Unless there are any technical questions about the bill, that's the last thing that I would say.

0910

The Vice-Chair (Mr. Paul Miller): We'll get to that. Thank you for your submission. Now I'd like to see if there are any other interested parties in this submission? Seeing none, I'll move on to the parliamentary assistant. Are there any comments from the government?

Mr. Mario Sergio: I do have some comments. First of all, I would like to thank Mr. Sorbara, the member for Vaughan, for sponsoring the bill, and of course Mr. Colle, from Eglinton–Lawrence, for being present not only in support of the bill, but also in Mr. Sorbara's place.

From reading the material, I can see that the applicant has worked very closely with the local municipality to ensure not only their support for the proposed tax exemption, but assisting in the application as well. The government does not have any objection to the intent or aims of the legislation.

However, staff of the Ministry of Government Services raised a factual concern with respect to the de-

scription of property in the bill. As well, the Ministry of Finance staff suggest a clarification regarding the application of the tax exemption to all or part of the property. I understand that legislative counsel and staff of interested ministries have worked together to suggest a resolution to these issues via amendments which, when you're ready, I'd like to move, Mr. Chairman.

The Vice-Chair (Mr. Paul Miller): Are there any other comments?

Mr. Gerry Martiniuk: I certainly support the application, but I'd just like a little more detail as to the future use of the property. I believe you've mentioned a community centre. You've got elementary schools, special-needs residences. It's 50 acres. What else do you have in mind?

Mr. David Sadowski: Let me be clear: From the 50 acres, 10 of the acres have gone to roads and valley lands in a normal development course, so it's actually 40 net developable acres. I'll put on my developer hat for a moment.

The land is divided into four separate pieces by roads and by valleys. Without going into too much detail, the first quadrant of the land, which is about 15 acres, has a 200,000-square-foot community centre, which includes a number of social service agencies, typical community centre types of facilities with respect to fitness and physiotherapy, arts—all what I would call fairly typical community centre activities. Special-needs housing is 60 units, all designed for a variety of special-needs people, whether they're developmentally challenged or spousal abuse families, because it's a building that has 24/7 care.

The rest of the site: The two next quadrants, as we call them, which are about seven and a half acres to nine acres each, are designed for elementary schools right now. Again, it's hard to know how many elementary schools will be needed, but interestingly enough, under the agricultural zoning, all of these uses are permitted institutional uses. We have always notionally thought about the balance of the lands being for long-term-care facilities, for seniors' housing or for buildings that serve the seniors' community. It's a little difficult to know at this point.

All of it is to be owned by UJA Federation. All the land is conveyed to other users through long-term land leases. That's in order for us to maintain the integrity of the delivery of services. If an event occurred where it became a private entrepreneur, then this tax exemption obviously wouldn't apply in that case. The intent is, all the land is owned by UJA Federation. It is leased, again, to these various users on a long-term-lease basis so that we can maintain our presence and make sure that it is all about non-profit service delivery.

Mr. Gerry Martiniuk: Thank you.

The Vice-Chair (Mr. Paul Miller): The third party is absent today because he's sitting here. I'd just like to let you know that our party is in support of this bill.

Now we would like to move on—oh, I'm sorry. Mr. Craitor.

Mr. Kim Craitor: I just have a short question; certainly, I'm supporting this. I think this question resonates

from the fact that I spent 10 years on the city council of Niagara Falls and I've seen similar requests. I'm just curious, what would be the tax savings?

Mr. David Sadowski: Do you know what? I—

Mr. Kim Craitor: Just a round figure.

Mr. David Sadowski: It would be millions of dollars, probably, over the period of time.

Mr. Kim Craitor: That's round figures.

Mr. David Sadowski: Yes. I've actually not sat down and addressed it with respect to that.

We're currently taxed on a single-family residential basis. I remember the last assessment for the 40 acres was somewhere around a million and a half dollars.

It's interesting; the anomaly here, partly, is that the high school which we've currently built would normally be exempt from taxes if they owned the building and the land. In this case, they only own the building, and we're leasing them the land. Under this exemption, they would become exempt, like every other high school would be. So there are some anomalies that are attached to it.

Elementary schools would typically be exempt if they owned the land and the building; but in this case, since we're leasing the land, they wouldn't be exempt. So that will cover off those opportunities. It's the same, I believe, for synagogues and places of worship. They would normally be exempt.

I should add that one of the things Vaughan likes about this community centre is that it alleviates their obligation to build community centres of the same size, because they know that this will serve a certain part of their population. So, in fact, the community centre that they'll be required to build in the next block or nearby will be much smaller in scale, because they'll now have the benefit of two.

It's a significant amount of money, but again, it's all donor-driven money. It's many millions, would you guess, David?

Mr. David Bronskill: No—I would support that and add just two things. First, we don't know the full impact of the future savings because, as the campus is developed, we would get reassessed and potentially reclassified, as you know. So the future savings will actually, I would suspect, go up in time, as the property becomes developed and the value of the land therefore increases. Second, the bill, through the help of staff, has been carefully structured so that if there are portions of the property that aren't being used for the charitable purposes of the campus, the municipality can pass a bylaw that is more restrictive or less restrictive and that applies to some of the lands or all of the lands.

The intention here isn't to take the 50 acres and have a blanket exemption for it, but to allow us to continue to work with the municipality, as the campus is developed, to ensure that those portions of the property that truly warrant an exemption receive a bylaw and that exemption. There may be portions of the property, over time, in working with the municipality, where we recognize that the exemption shouldn't apply. We'll continue to have

that dialogue with the municipality as we develop the site over the next 15 to 20 years.

Mr. Kim Craitor: You have my best wishes.

The Vice-Chair (Mr. Paul Miller): Mr. Ruprecht.

Mr. Tony Ruprecht: These tax savings are beginning on January 1, 2008.

I had a chance to meet Mr. Wolf Lebovic on Monday, in fact, and I didn't ask him, number one, when are you going to open the campus?; and number two, what's the potential of these students? What are the rough numbers?

Mr. David Bronskill: The high school currently has 650 students in it. It was built and designed for up to 1,200 students.

The community centre, which is scheduled to begin construction in April, will take, depending on who you want to believe, 29 or 30 months to build, so we're scheduled to open in September 2011. My guess is, sitting here knowing what I do about this business, that it'll probably be early in 2012. But please don't tell anybody that, because we're going with 2011.

That building, as I said, includes about 15,000 square feet of social service agencies. One of the hospitals is looking at putting in a family treatment and wellness centre. The community centre has about 90,000 square feet of pools and arts and recreation facilities. Of course, the hospital expects to use the pools for physiotherapy and things like that; that's where that joint use comes into play. Reena is opening up an adult daycare program for their developmentally challenged adults. They use the space from about 8:30 to 5 o'clock during the day, and then at 5 o'clock the space becomes available for community groups to use. It's all been designed to maximize the use, and even the high school is designed in such a way that it connects to the community centre so that the high school gymnasiums are used by the high school during the day and then at night the community centre uses them. Again, we maximize use wherever possible. These are initiatives we're starting to see not only in our development but throughout the province, which are just joint uses. But right now, there are 650 students there.

Mr. Tony Ruprecht: Finally, on a lighter note, I can only support this bill if Mr. Adler becomes a professor.

The Vice-Chair (Mr. Paul Miller): Boy, you're a true politician.

Mr. Stephen Adler: Mr. Ruprecht, my parents are very happy right now that you want me to get a doctorate.

The Vice-Chair (Mr. Paul Miller): Seeing no further questions or comments, we'll move on to the new amendments. The amendment to section 1—do I have a mover?

Mr. Mario Sergio: I do so. Before I move that, I would like to recognize the good work that David Sadowski has done on behalf of the Canada Lands corporation as chairman. It's wonderful park that should add quite a bit to the city of Toronto, if and when it gets under way. So good luck, and—

The Vice-Chair (Mr. Paul Miller): Thank you, Mr. Sergio. I guess that was a point of order.

Mr. Mario Sergio: Yes.

The Vice-Chair (Mr. Paul Miller): We'll let that slip by, even though we've gone past that; you get 10 points.

Are you ready for the first amendment?

Mr. Mario Sergio: Yes, I'm ready, Mr. Chairman.

I move that section 1 of the bill be struck out and the following substituted:

“Definition

“1. In this act,

“specified property” means the land, as defined in the Assessment Act, comprising approximately 50 acres on the west side of Bathurst Street, north of Rutherford Road, being composed of part of lots 17 and 18, concession 2, Vaughan, more particularly identified as PINs 03341-2301(LT), 03341-2302(LT) and 03341-2303(LT) within the records of the Land Registry Office, York region (No. 65).”

The Vice-Chair (Mr. Paul Miller): Is there any debate on this amendment? Seeing none, shall the amendment carry? Carried.

Shall section 1, as amended, carry? Carried.

We'll now move on to section 2.

Mr. Mario Sergio: I move that section 2 of the bill be struck out and the following substituted:

“Tax exemption bylaw

“2. The council of the city of Vaughan may pass a bylaw exempting the specified property, or any portion of it, from taxes for municipal purposes, other than local improvement rates, beginning January 1, 2008, if,

“(a) the specified property, or the portion of it that is subject to the bylaw, is occupied and used solely for the purposes of the Lebovic campus;

“(b) the Lebovic campus is the registered owner of the specified property, or the portion of it that is subject to the bylaw; and

“(c) the Lebovic campus is a registered charity within the meaning of the Income Tax Act (Canada).”

The Vice-Chair (Mr. Paul Miller): Any debate on section 2? Seeing none, shall the amendment carry? Carried.

Shall section 2, as amended, carry? Carried.

We'll move on to section 3.

Mr. Mario Sergio: I move that subsection 3(1) of the bill be amended by striking out “the specified property” and substituting “the specified property, or the portion of it that is subject to the bylaw”.

The Vice-Chair (Mr. Paul Miller): Is there any debate on section 3? Seeing none, shall the amendment carry? Carried.

Shall section 3, as amended, carry? Carried.

Shall section 4 carry? Carried.

Shall section 5, short title, carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill, as amended, carry? Carried.

Shall I report the bill, as amended, to the House? Done deal.

Thank you, gentlemen, for your wonderful submission.

The committee adjourned at 0924.



CONTENTS

Wednesday 10 December 2008

Joseph and Wolf Lebovic Jewish Community Campus Act, 2008, Bill Pr20,	
<i>Mr. Sorbara</i>	T-67
Mr. Mike Colle, MPP	
Mr. Stephen Adler	
Mr. David Sadowski	
Mr. David Bronskill	

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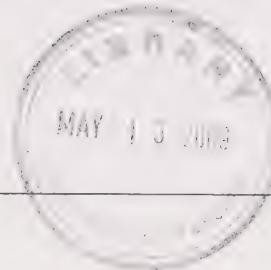
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T-13

ISSN 1180-4319

Legislative Assembly of Ontario

First Session, 39th Parliament

Official Report of Debates (Hansard)

Wednesday 22 April 2009

Standing Committee on
Regulations and Private Bills

Assemblée législative de l'Ontario

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Mercredi 22 avril 2009

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règlements et des projets
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Published by the Legislative Assembly of Ontario



Service du Journal des débats et d'interprétation
Salle 500, aile ouest, Édifice du Parlement
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Toronto ON M7A 1A2
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Publié par l'Assemblée législative de l'Ontario

LEGISLATIVE ASSEMBLY OF ONTARIO

**STANDING COMMITTEE
ON REGULATIONS
AND PRIVATE BILLS**

Wednesday 22 April 2009

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

**COMITÉ PERMANENT DES
RÈGLEMENTS ET DES PROJETS DE LOI
D'INTÉRÊT PRIVÉ**

Mercredi 22 avril 2009

The committee met at 0903 in room 151.

1173931 ONTARIO LIMITED ACT, 2009

Consideration of Bill Pr21, An Act to revive 1173931 Ontario Limited.

The Chair (Mr. Michael Prue): I call the meeting to order.

The first bill before us is Bill Pr21, An Act to revive 1173931 Ontario Limited. The sponsor is Mr. Johnson. Mr. Johnson, would you take the seat and introduce the applicant?

Mr. Rick Johnson: On behalf of MPP Rinaldi, I would like to introduce Peter Robertson, the legal counsel who is going to speak to this bill.

The Chair (Mr. Michael Prue): Mr. Robertson, the floor is yours.

Mr. Peter Robertson: Thank you, Mr. Chairman.

This proposed legislation to revive 1173931 Ontario Limited arises, as is set out in the compendium, as a result of the directors of the corporation all having become non-residents of Canada. Essentially, 1173931 Ontario Limited is, or was, a company that owns a number of apartment buildings in the Quinte area. The directors are all family members. They're from Switzerland. The elder generation of that family required care, and they all moved back to Switzerland to look after the father and mother. When they did that, they filed a Form 1, Notice of Change, advising the government of the change of address, and the director cancelled the corporation.

I have agreed to be the resident Canadian director, and I have been so appointed. Until they can come back from Switzerland, I will be the resident Canadian director of this corporation.

We have to get the corporation re-established in order to file the tax returns and resume carrying on business in Canada.

I think that's basically my submission.

The Chair (Mr. Michael Prue): Okay. Any comments from the sponsor? None? Any interested parties? Are there any interested parties to this? Seeing none, Parliamentary Assistant, any comments?

Mr. Mario Sergio: Mr. Chairman, the ministry that might have had an interest in this bill has shown no concern whatsoever. I don't have any problem with the bill

itself. I don't have much else to say, other than I'll be supporting the bill.

The Chair (Mr. Michael Prue): Any questions from committee members?

Mr. Paul Miller: When they left Canada and went back to Switzerland, were they aware of the rules? Did they just mess up on the rules, on the forms? It seems like this is an afterthought.

Mr. Peter Robertson: They were doing their own legal work at the time. One of the directors took it upon himself to file a Form 1, Notice of Change.

Mr. Paul Miller: Without legal advice?

Mr. Peter Robertson: Without legal advice. My involvement started when I got an urgent e-mail from Switzerland asking me to do something about it immediately.

Mr. Paul Miller: And you're a lawyer?

Mr. Peter Robertson: I'm a lawyer, yes. I've been a lawyer for 31 years.

Mr. Paul Miller: So someone took it upon themselves, felt that they had a legal background and they did it, and it didn't work out, basically.

Mr. Peter Robertson: That's about right, yes.

Mr. Paul Miller: Okay. Thank you.

The Chair (Mr. Michael Prue): Any other questions? No other questions. Are the members ready to vote? Okay.

Shall section 1 carry? Carried.

Shall section 2 carry? Carried.

Shall section 3, the short title, carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? Carried.

Thank you very much. That's democracy, and pretty fast.

Mr. Peter Robertson: It's interesting to see.

Mr. Paul Miller: Was it worth the trip?

Mr. Bill Murdoch: He's a lawyer. He's been doing this—

Mr. Peter Robertson: Actually, I have to say yes, it was.

Mr. Paul Miller: From a financial perspective?

Interjection: We'll stop there.

Interjections.

WELECHENKO TRANSPORT LTD.
ACT, 2009

Consideration of Bill Pr23, An Act to revive Welechenko Transport Ltd.

The Chair (Mr. Michael Prue): Order, please. We have a second item on the agenda, which is Bill Pr23, An Act to revive Welechenko Transport Ltd. The sponsor is Mr. Murdoch. So, Mr. Murdoch, if you would change seats there and introduce the applicant.

Mr. Bill Murdoch: This is a good bill. It won't take long. I wouldn't bring a bad bill to this committee, because I know that if we ever got bogged down, we'd be in trouble.

Mr. Danyluk is here to represent the applicant. Do you have a few words you want to tell them? But don't say too much because they can only absorb so much.

Mr. Paul Miller: You can say that because you're a separate party.

Mr. Bill Murdoch: I know.

Mr. William Danyluk: I'm just here to represent him because he's on the road. He can't make it, and he asked me to come and speak. He wants to change the property that he's applying for here to his name from the corporation.

The Chair (Mr. Michael Prue): How are you related to the applicant?

Mr. William Danyluk: He's my nephew.

The Chair (Mr. Michael Prue): All right. Does the sponsor have any comments?

Mr. Bill Murdoch: Just that it's a housecleaning sort of bill and they'd like to get on with it.

The Chair (Mr. Michael Prue): All right. Are there any interested parties to this bill? Any interested parties? Anyone else? Okay. Parliamentary Assistant?

Mr. Mario Sergio: As usual, I'd like to compliment the sponsor of the bill, the member from Owen Sound. He has come a long way to be present this morning in support of his constituents. He does that very well and with good flair. We appreciate that and I'm sure that the applicants appreciate that as well.

No ministry has shown any concern with the bill, Mr. Chairman, so I'm pleased to support the bill and move it on.

The Chair (Mr. Michael Prue): Questions from members? Mr. Martiniuk and then Mr. Miller.

Mr. Gerry Martiniuk: To the sponsor, just to correct the record, are you a member of an Ontario political party?

Mr. Bill Murdoch: Yes, I am a member of a party.

Mr. Gerry Martiniuk: Thank you. Which one?

The Chair (Mr. Michael Prue): If this was serious, then—but all right. Mr. Miller?

Mr. Paul Miller: I would like to thank the sponsor for his wonderful input, and I guess it's just kind of a one-liner; it's just a housecleaning thing: Vote for it. Well, thanks, Bill. That was quite insightful of you, and I appreciate it, but I think it's just basically a no-brainer.

Mr. Mario Sergio: He put a lot of work into it.

Mr. Paul Miller: He put a lot of work into it, yes.

The Chair (Mr. Michael Prue): Any other questions from members? Seeing none, are the members ready to vote? Okay.

Shall section 1 carry? Carried.

Shall section 2 carry? Carried.

Shall section 3, the short title, carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? Carried.

Thank you very much.

Mr. Bill Murdoch: Thank you very much. I appreciate it.

Mr. William Danyluk: Thank you very much.

The Chair (Mr. Michael Prue): Before we formally close, just a couple of things. Welcome to the new members. Mr. Naqvi, this is your first meeting—

Mr. Yasir Naqvi: It is.

The Chair (Mr. Michael Prue): It is indeed, and Mr. Johnson, your first meeting. Welcome to the committee. You can see the onerous responsibility we have and the hard work that we do. Usually the committee meetings are very rapid.

Mr. Bas Balkissoon: We're most efficient.

The Chair (Mr. Michael Prue): We are very efficient, and we have wonderful staff.

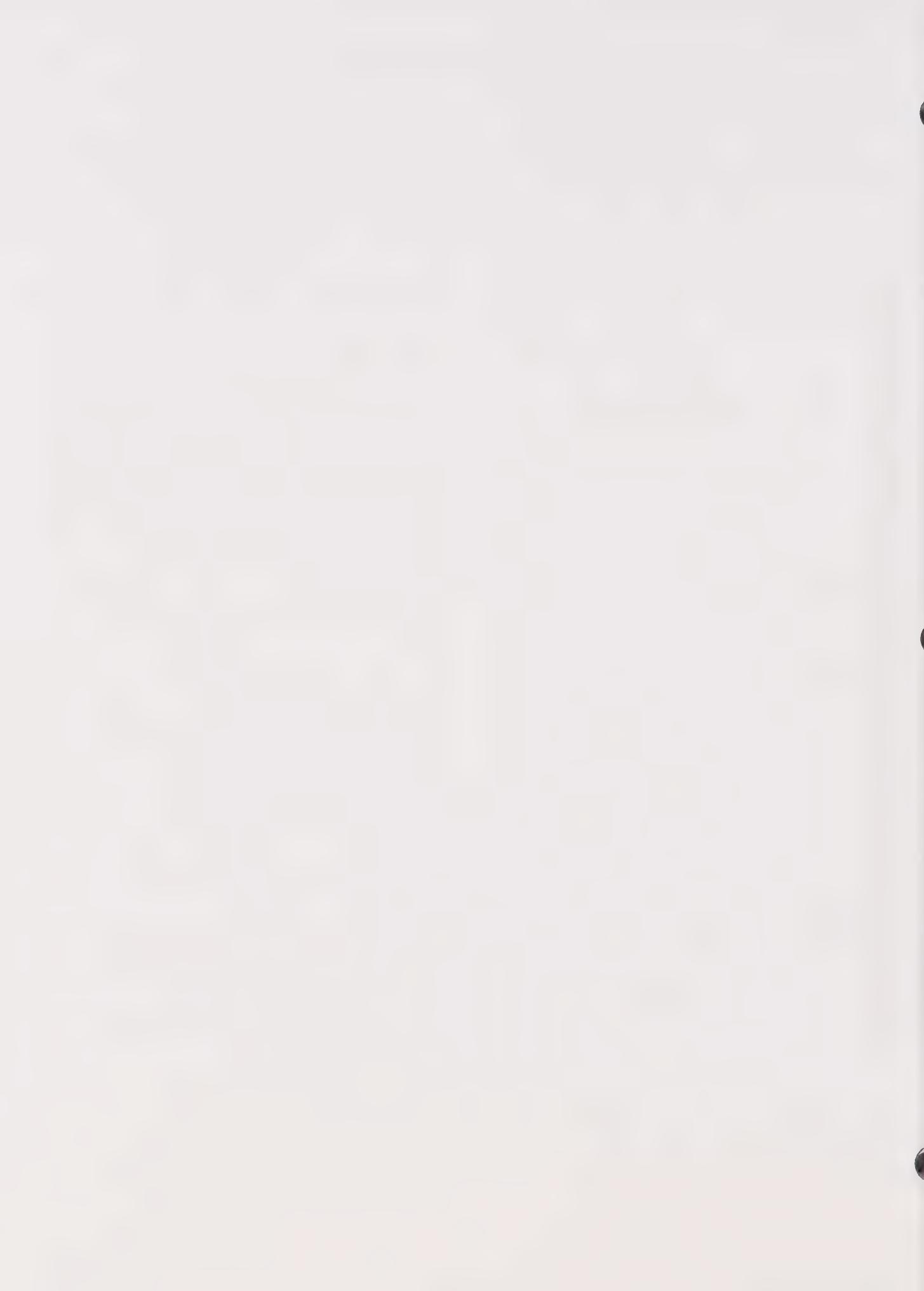
I've been told there are new fact binders available and you have them to help you understand the role of the committee and what the committee does. So, welcome to you.

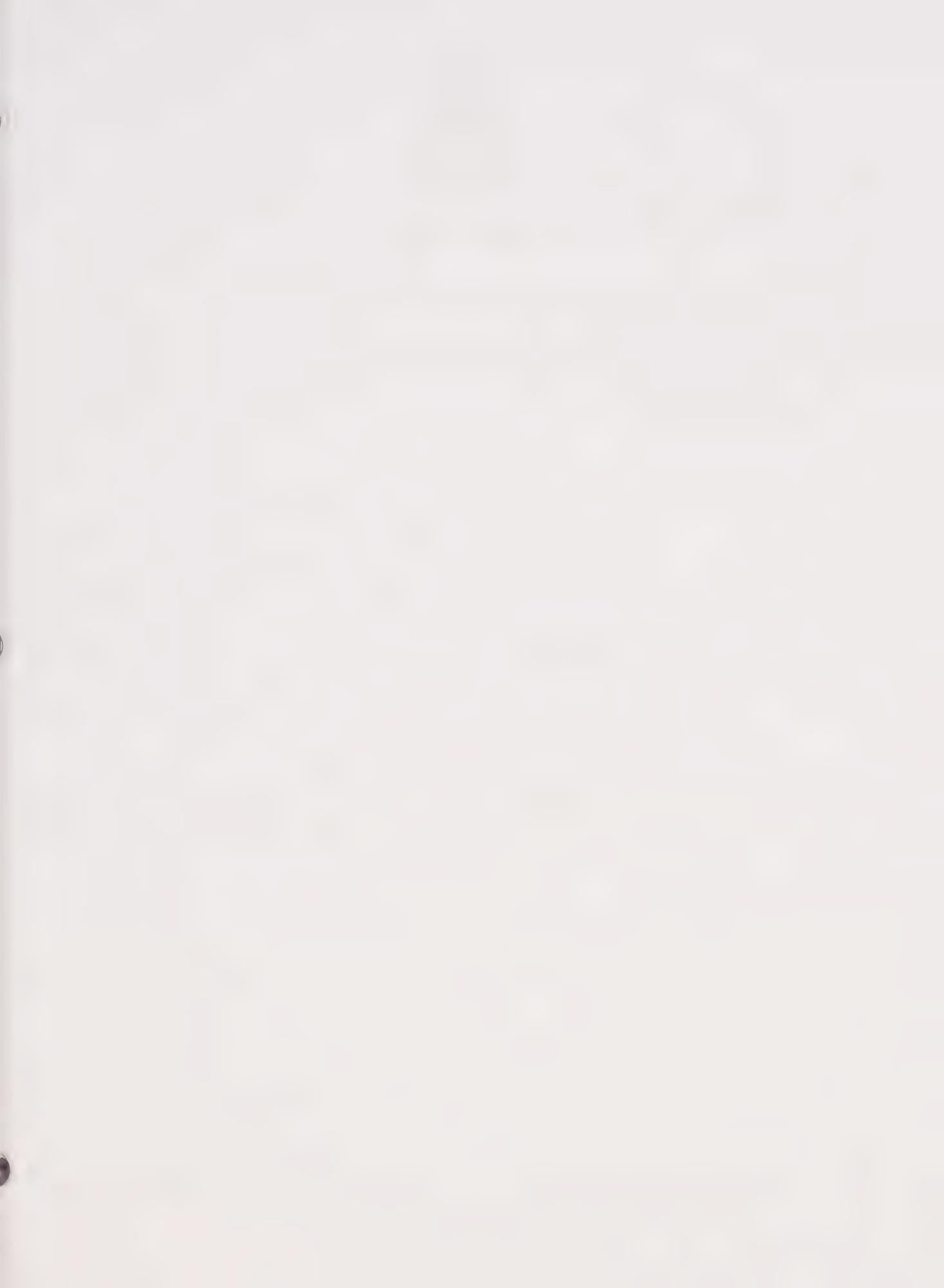
I think that's really all we have on the formal part. We do have a subcommittee, if those would just stay for a few minutes. I see Mr. Ramsay is here. The subcommittee is to discuss the possibility of moving his bill forward.

The meeting is adjourned.

The committee adjourned at 0913.







CONTENTS

Wednesday 22 April 2009

1173931 Ontario Limited Act, 2009, Bill Pr21, <i>Mr. Rinaldi</i>	T-71
Mr. Rick Johnson, MPP	
Mr. Peter Robertson	
Welechenko Transport Ltd. Act, 2009, Bill Pr23, <i>Mr. Murdoch</i>.....	T-72
Mr. Bill Murdoch, MPP	
Mr. William Danyluk	

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ISSN 1180-4319

Legislative Assembly of Ontario

First Session, 39th Parliament

Assemblée législative de l'Ontario

Première session, 39^e législature

Official Report of Debates (Hansard)

Wednesday 3 June 2009

Journal des débats (Hansard)

Mercredi 3 juin 2009

Standing Committee on
Regulations and Private Bills

Comité permanent des
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de loi d'intérêt privé

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Published by the Legislative Assembly of Ontario



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Publié par l'Assemblée législative de l'Ontario

LEGISLATIVE ASSEMBLY OF ONTARIO

**STANDING COMMITTEE
ON REGULATIONS
AND PRIVATE BILLS**

Wednesday 3 June 2009

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

**COMITÉ PERMANENT DES
RÈGLEMENTS ET DES PROJETS DE LOI
D'INTÉRÊT PRIVÉ**

Mercredi 3 juin 2009

The committee met at 0901 in room 151.

The Chair (Mr. Michael Prue): If members would take their seats, we will call the meeting to order.

Before we get on to the business of the day, just for the members' edification, there was a subcommittee report prepared for Mr. Ramsay's bill. Mr. Ramsay has asked that his bill be withdrawn, in light of what the government is doing around that. He made a statement in the House. It has been withdrawn, and subsequently the subcommittee report will not be put before the full committee.

**DEEP RIVER MANAGEMENT
SERVICES INC. ACT, 2009**

Consideration of Bill Pr16, An Act to revive Deep River Management Services Inc.

The Chair (Mr. Michael Prue): I'd like to call the first consideration, which is Bill Pr16, An Act to revive Deep River Management Services Inc. Sponsor: John Yakabuski. Could Mr. Yakabuski and the applicant please come forward.

In my notes here, the applicant is Michael Stern, legal counsel. Is that correct?

Mr. Michael Stern: That's correct.

The Chair (Mr. Michael Prue): Excellent. Mr. Yakabuski, the floor is yours.

Mr. John Yakabuski: The floor is Mr. Stern's.

Mr. Michael Stern: Good morning, members. I'm here with respect to An Act to revive Deep River Management Services Inc. On July 15, 2005, the company was voluntarily dissolved. At the time, it was overlooked that they held a second mortgage in an amount in excess of \$100,000. Recently, the first mortgagee started preparing power-of-sale documents, and in order to be able to act on their rights, Deep River Management Services wish to reincorporate.

The Chair (Mr. Michael Prue): That's pretty succinct.

Mr. Michael Stern: That's why we're here.

The Chair (Mr. Michael Prue): Are there any interested parties present in this matter?

Parliamentary Assistant, any comments from the government?

Mr. Mario Sergio: I'd like to compliment Mr. Yakabuski for all the hard work that he has put into bringing forth and assisting his clients in bringing the bill through.

The various ministries that had an interest in the bill have shown no concern with the bill. Therefore, I move approval.

The Chair (Mr. Michael Prue): Any questions from committee members?

Mr. Paul Miller: I was very impressed with the compliment from the Liberal government towards you.

Mr. John Yakabuski: So was I. I owe you, Mario.

Mr. Mario Sergio: I'll do the same thing for you, Mr. Miller.

Mr. Paul Miller: I'll be waiting.

The Chair (Mr. Michael Prue): I think we've had enough debate on this. Are the members ready to vote?

Shall section 1 carry? Carried.

Shall section 2 carry? Carried.

Shall section 3 carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? Agreed.

Thank you very much.

Mr. John Yakabuski: Thank you very much to all members of the committee. I appreciate that.

Mr. Bill Murdoch: Just put it in the notes that that's the quietest I've ever seen Yakabuski in my life.

**NEW HERMES LIMITED/NEW HERMES
LIMITÉE ACT, 2009**

Consideration of Bill Pr24, An Act to revive a corporation named New Hermes Limited in English and New Hermes Limitée in French.

The Chair (Mr. Michael Prue): That brings us to the second item on the agenda, which is Bill Pr24, An Act to revive a corporation named New Hermes Limited in English and New Hermes Limitée en français. The sponsor is Bas Balkissoon and the applicant I have down is Aron Halpern, legal counsel. Is that correct?

Mr. Aron Halpern: That is correct.

The Chair (Mr. Michael Prue): Mr. Balkissoon, the floor is yours.

Mr. Bas Balkissoon: I'm just here on behalf of my colleague Amrit Mangat, who can't be here this morning, to introduce Mr. Aron Halpern, who's going to go through the application with you.

Mr. Aron Halpern: Thank you, Mr. Balkissoon, for your introduction, and thank you to the members of the committee for your time and consideration of this matter today. As mentioned, my name is Aron Halpern. I'm a lawyer with the law firm of Fraser Milner Casgrain LLP, and we're legal counsel to New Hermes Limited in connection with the matter before the committee today.

The purpose of Bill Pr24 is to revive New Hermes Limited, which is known as New Hermes Limitée in French. The corporation was involuntarily dissolved for failure to meet the director residency requirements imposed under subsection 118(3) of the Ontario Business Corporations Act, which requires that the corporation have a board of directors of four or more directors and that at least 25% of those directors must be resident Canadians. Further, the act requires that where a corporation has less than four directors, as was the case with the corporation at the time of dissolution, then at least one of those directors must be a resident Canadian. At the time of dissolution, the corporation had a single director, and that director was a resident of the United States.

By way of background, the corporation was originally incorporated on August 30, 1962, under the Canada Business Corporations Act, and was continued from federal jurisdiction to Ontario's jurisdiction and became a corporation under Ontario's Business Corporations Act on September 20, 1985. The corporation is a wholly owned subsidiary of Gravograph Inc., a corporation that is located in Duluth, Georgia. The corporation is a leading provider of engraving equipment and software and engraving materials as well as related services and technical support, and the failure by the corporation to meet the director residency requirements came to light when it filed its corporate income tax return in Ontario last year.

As the members of the committee may be aware, a corporation's annual corporate return may be filed when a corporation files its income tax return by simply completing a specific schedule to the tax return. This system is convenient, as it allows a corporation to cut down on the number of separate filings it must make annually in Ontario. However, this process also means that often annual corporate returns are completed by in-house staff for a corporation or by accountants, without the assistance of legal counsel. In this case, in the case of our client, the corporation filed its return; such return did not indicate that there was a resident Canadian director.

Due to this fact, the filing was not accepted by the companies and personal property security branch at the Ministry of Government Services. Our client was not aware of the residency requirements and did not appreciate the nature of the problem, and due to a further breakdown of communication was unable to rectify the situation within the time frame suitable to the companies branch. As a result, the corporation was involuntarily dissolved on February 25 of this year. After the corporation was dissolved, our client approached us for assistance in correcting the situation. The introduction of Bill Pr24 is the only option available when wanting to revive a corporation under these types of circumstances.

Upon revival, Kristin Taylor, a partner of Fraser Milner, will be elected to serve on the corporation's board of directors, and as such, the corporation will meet the residency requirements set out in the act going forward. Our client is eager to have the corporation revived so that it can continue to carry on its business here in Ontario and elsewhere in Canada. Additionally, if we are fortunate enough to have the bill pass during the current session it will be able to meet its obligation to file its tax returns later on this month.

This concludes my submission. Thank you very much.

The Chair (Mr. Michael Prue): Are there any interested parties in the room to speak to this item? Any interested parties? Seeing none, the parliamentary assistant.

Mr. Mario Sergio: On this particular bill, all the ministries—the Attorney General, the Ministry of Government and Consumer Services, the Ministry of Finance, the Ministry of Municipal Affairs and Housing and, as well, the Ministry of Aboriginal Affairs—have shown no concern with the bill.

I compliment the applicant for being here this morning and Mr. Balkissoon for filling in for the sponsor, Ms. Mangat. I know that she has done quite a bit of work on this particular bill. As you know, members are only assisting and facilitating to bring bills forward to this committee. Other than that, they have no responsibility to see if the bill goes through or not, so I want to compliment the members for assisting the applicant in bringing the bill here.

Since we have no concern with the bill as the government ministries, I move approval of the bill.

0910

The Chair (Mr. Michael Prue): Any questions from committee members?

Mr. Paul Miller: Once again, this happens on a regular basis. I don't know if some of these firms don't hire solicitors or the solicitors sometimes go out of business or they don't communicate with the client. There's a breakdown in communication on a regular basis. We get these all the time. I've put forward to the committee that we should address this, that the ministries should put out the rules and any changes to the rules on a regular basis so that the solicitors who work closely with the government and their clients are up on this, because obviously it takes time and money to do this and come here. I'm not pleased with the communication levels between the solicitor, the client and the government. That has to be cleaned up. Other than that, I don't have a problem with this.

The Chair (Mr. Michael Prue): I take it that that was not a question but a statement.

Mr. Paul Miller: That was a statement.

The Chair (Mr. Michael Prue): All right. Any additional statements or questions? Seeing none, are the members ready to vote?

Shall section 1 carry? Carried.

Shall section 2 carry? Carried.

Shall section 3 carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.
 Shall the bill carry? Carried.
 Shall I report the bill to the House? Carried.
 Thank you very much, item concluded.

SISTERS OF ST. JOSEPH
 OF THE DIOCESE OF LONDON,
 IN ONTARIO ACT (TAX RELIEF), 2009

Consideration of Bill Pr26, An Act respecting The Sisters of St. Joseph of the Diocese of London, in Ontario.

The Chair (Mr. Michael Prue): This brings us to consideration of the last item on the agenda, Bill Pr26, An Act respecting The Sisters of St. Joseph of the Diocese of London, in Ontario. The sponsor is Khalil Ramal, and the applicants I have listed here are: Sister Margo Ritchie of the Sisters of St. Joseph; Mr. Kenneth West, legal counsel; Mr. David Fleet, legal counsel; and Mr. Daniel McNamara, legal counsel. Would that be correct?

Mr. Khalil Ramal: That's correct.

The Chair (Mr. Michael Prue): All right. Mr. Ramal, the floor is yours.

Mr. Khalil Ramal: Thank you for allowing me to be the sponsor of Bill Pr26, An Act respecting The Sisters of St. Joseph of the Diocese of London, in Ontario.

I have with me all the people you mentioned, so I'm not going to repeat the names again. If you have any questions or concerns from both sides of the table, don't hesitate to ask. I would leave the floor to the legal counsel and Sister Margo, if she has any comment.

Sister Margo Ritchie: We're very happy that you're willing to consider this for us. Of course, as an organization, we are a little hesitant—it's not our usual practice to lay out what we do. Our usual practice is to simply do what we do and carry on. But we knew that we were on the right track when we met with the person in charge of taxation at the city of London to begin discussing this matter and his response to us immediately was, "Why are you here?" Really, what we're wanting is to maintain the status quo, which is that we have not been paying property tax on our mother house.

We have a very long history in the city of London. We arrived 140 years ago in 1868. At that time our first work was an orphanage, and also, very soon after, building up the health care system. We have St. Mary's Hospital, St. Joseph's Hospital and Marian Villa, which has recently been handed over, in London; also in the education system.

Part of our spirit as a congregation has been to move into areas where needs are not being met and do something about them. To that end, in the 1970s we began homes for women who were homeless, and also for refugees in the 1980s. In 1985, we also opened a soup kitchen in London, which is still going, unfortunately. Over 300 people go there daily. All of this is done without any government support. In the beginning, when we

began these works, it never occurred to us to get government support; it was just, this is what we do.

I think one of the more compelling reasons for us coming to ask for this exemption has to do with the care of our senior sisters. We have a care centre at our mother house which is, in effect, a long-term-care facility that we operate ourselves with no government support. The annual cost is about \$2 million. So we do not take places in long-term-care centres run by the province or the municipality, and we run this quite independently. That seemed to be a pretty compelling reason for us to come forward to you and say, would you please consider a tax exemption on our property where this centre is?

The other thing about our relationship with the city: I think we have, because of our many years of collaborating—and I think that's the best word to use—with the city, a very good relationship. This, in truth, was a no-brainer to them. We had to go back a second time and ask them for a little rewording. We didn't get the wording quite right—no problem at all. We feel quite confident that the city is pleased with our level of contribution, and we will be continuing to contribute in whatever ways we can to provide for our city. So we ask you to consider this.

The Chair (Mr. Michael Prue): Do any of the other applicants wish to speak to this matter? Is there anyone present in the room who would like to speak to this matter? Seeing none, the parliamentary assistant.

Mr. Mario Sergio: Thank you, Mr. Chair. This particular bill has been in front of our committee for some time. It has been here before. I know the sisters have been very persistent in pursuing their goal in seeing that this indeed would come to a head. I have to compliment the member from London–Fanshawe for sponsoring and assisting the sisters in bringing the bill to this stage.

Both ministries that have an interest in this particular bill, the Ministry of Finance and the Ministry of Municipal Affairs and Housing, have delved into the content of the bill and have shown no opposition or concern with the bill, as it has arrived to this stage. So I move approval.

The Chair (Mr. Michael Prue): Questions from committee members?

Mr. Paul Miller: Another small statement, not really a question: I wish you all the best. You do great work, and we're blessed to have people like you in our communities. I have no problem with this whatsoever.

The Chair (Mr. Michael Prue): If I could use the Chair's prerogative, it was I who raised this in the Legislature. I understand that may have caused some embarrassment, but it was not intended to. It was intended to bring to the fore the problem that you were having and resulted, I guess, in what is happening here today. I am confident—

Mr. Mario Sergio: Is that a *mea culpa*?

The Chair (Mr. Michael Prue): No, not a *mea culpa*. I thought it was necessary to bring it forward because I was worried that if it was not resolved, it could bring an end to your organization, which we did not want to see.

Sister Margo Ritchie: Our concern was not that it would bring an end to our organization, but that it would jeopardize our ability to be able to give to groups who share our values. So thank you.

The Chair (Mr. Michael Prue): Having made that statement, does anybody else wish to speak or ask questions? Seeing none, are the members ready to vote?

Shall section 1 carry? Carried.

Shall section 2 carry? Carried.

Shall section 3 carry? Carried.

Shall section 4 carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? Carried.

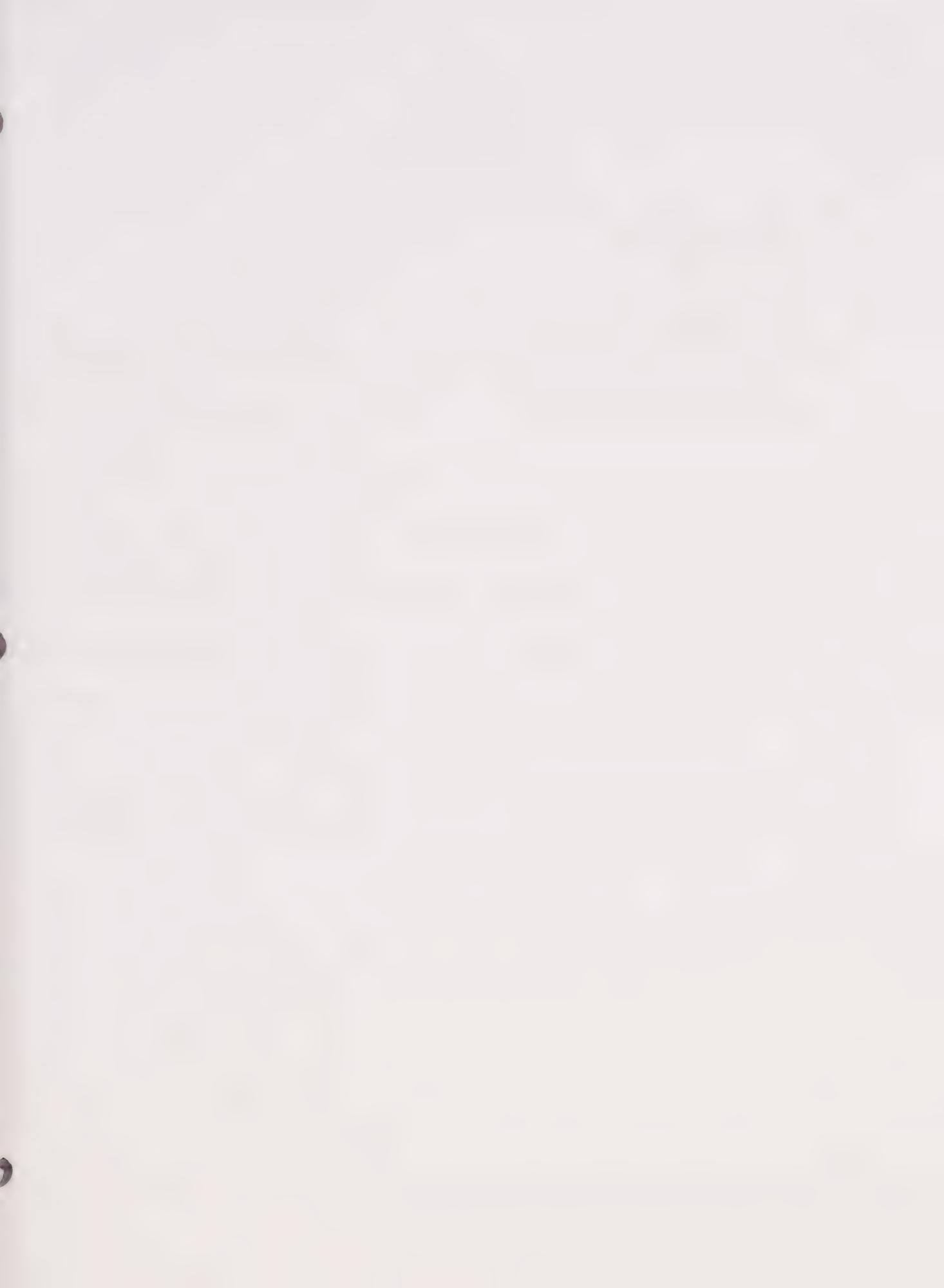
Sister Margo Ritchie: Thank you very much.

Mr. Khalil Ramal: Thank you, Mr. Chair, and thank you to all the members for your support. Congratulations.

Sister Margo Ritchie: Thanks.

The Chair (Mr. Michael Prue): That brings us to the conclusion of business for today. Is there any other business from members? Seeing no other business, this meeting is adjourned.

The committee adjourned at 0919.



CONTENTS

Wednesday 3 June 2009

Deep River Management Services Inc. Act, 2009 , Bill Pr16, <i>Mr. Yakabuski</i>	T-73
Mr. John Yakabuski, MPP	
Mr. Michael Stern	
New Hermes Limited/New Hermes Limitee Act, 2009 , Bill Pr24, <i>Mrs. Mangat</i>	T-73
Mr. Bas Balkissoon, MPP	
Mr. Aron Halpern	
Sisters of St. Joseph of the Diocese of London, in Ontario Act (Tax Relief), 2009	
Bill Pr26, <i>Mr. Ramal</i>	T-75
Mr. Khalil Ramal, MPP	
Sister Margo Ritchie	

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ISSN 1180-4319

Legislative Assembly of Ontario

First Session, 39th Parliament

Official Report of Debates (Hansard)

Wednesday 4 November 2009

Standing Committee on
Regulations and Private Bills



Chair: Michael Prue
Clerk pro tem: Trevor Day

Assemblée législative de l'Ontario

Première session, 39^e législature

Journal des débats (Hansard)

Mercredi 4 novembre 2009

Comité permanent des
règlements et des projets
de loi d'intérêt privé

Président : Michael Prue
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Hansard Reporting and Interpretation Services
Room 500, West Wing, Legislative Building
111 Wellesley Street West, Queen's Park
Toronto ON M7A 1A2
Telephone 416-325-7400; fax 416-325-7430
Published by the Legislative Assembly of Ontario



Service du Journal des débats et d'interprétation
Salle 500, aile ouest, Édifice du Parlement
111, rue Wellesley ouest, Queen's Park
Toronto ON M7A 1A2
Téléphone, 416-325-7400; télécopieur, 416-325-7430
Publié par l'Assemblée législative de l'Ontario

LEGISLATIVE ASSEMBLY OF ONTARIO

**STANDING COMMITTEE
ON REGULATIONS
AND PRIVATE BILLS**

Wednesday 4 November 2009

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

**COMITÉ PERMANENT DES
RÈGLEMENTS ET DES PROJETS DE LOI
D'INTÉRÊT PRIVÉ**

Mercredi 4 novembre 2009

The committee met at 0901 in room 151.

The Chair (Mr. Michael Prue): It's now 9 o'clock. I call the meeting to order. We have five bills today, ladies and gentlemen, so we're going to go through them in fairly rapid succession in order to get them all done.

**ALLAURA INVESTMENTS
LIMITED ACT, 2009**

Consideration of Bill Pr15, An Act to revive Allaura Investments Limited.

The Chair (Mr. Michael Prue): The very first bill is Bill Pr15, An Act to revive Allaura Investments Limited. Its sponsor is Mr. Klees and the applicant is Irving Burton, parliamentary agent for the applicant. If they could both come forward and take a seat at the front.

Mr. Klees, you have to, too.

Mr. Frank Klees: Just when you think you're somebody.

Good morning, honourable members.

The Chair (Mr. Michael Prue): Yes, good morning. Mr. Klees, the floor is yours, if you have any comments.

Mr. Frank Klees: Yes, I'd like to introduce Mr. Irving Burton, who is the parliamentary agent for the applicant.

This goes back to May 2008, when I first met with Mr. Cadieux and Mr. Burton. They brought to my attention the fact that Allaura Investments Ltd., the corporation, was dissolved under the Business Corporations Act. It was dissolved on January 31, 1983. Unfortunately, that happened without the knowledge of either Mr. Cadieux or Mr. Burton, who is the accountant for the company. The company continued to carry on business, not being aware of the dissolution, and filed all of its required documentation year after year—all of the financial statements, tax returns and so on.

This clearly was inadvertent. They made the appropriate applications to have the corporation revived that is now before us.

I know that Mr. Burton would be pleased to respond to any questions that you have. Obviously, I would ask your support to approve this.

The Chair (Mr. Michael Prue): Mr. Burton, the floor is yours. Is there anything you'd like to say?

Interjection.

The Chair (Mr. Michael Prue): You don't have to stand; no, please, sit down. The microphone only works when you're sitting down.

Mr. Frank Klees: You don't have to say anything.

Mr. Irving Burton: No, thank you.

The Chair (Mr. Michael Prue): No, everything's fine? Okay. Then are there any interested parties in the room? Does anyone else wish to speak to this issue?

Seeing no one, parliamentary assistant, are there any comments from the government?

Mr. Mario Sergio: Yes, indeed, there are. I want to recognize the hard work that the member from Newmarket-Aurora has put in in bringing this bill to the attention of the committee and reviving the corporation. I believe that he must feel very strongly about it and it must be very important to his constituents. Putting all of that together and considering the amount of work that he went to coming here this morning, the ministries have no concern with the bill. Therefore, I would move approval.

The Chair (Mr. Michael Prue): Any questions from members? Mr. Miller?

Mr. Paul Miller: I have no opposition to it, however I once again will express my frustration at the lack of communication between lawyers, accountants and the government. They have obviously missed a lesson at school or the government has missed the boat, because they should be informed about these things. We see them come here for 10 years sometimes and they aren't aware, or the accountant—it's not the fault of the applicant; it's the fault of the people they hire to do their business and it's also the fault of a lack of communication between the government, the lawyers and the accountants. I constantly see this, and I really haven't seen any action taken to rectify this situation so that these people aren't put out and have to go through all this aggravation to come to Toronto. I hope somebody's going to move on this, because it goes on and on with no solutions.

The Chair (Mr. Michael Prue): Any other questions or comments? Seeing none, are the members ready to vote?

Shall section 1 carry? Carried.

Shall section 2 carry? Carried.

Shall section 3 carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? Carried.
Case finished.

1516495 ONTARIO INC. ACT, 2009

Consideration of Bill Pr18, An Act to revive 1516495 Ontario Inc.

The Chair (Mr. Michael Prue): Second item, Bill Pr18, An Act to revive 1516495 Ontario Inc. Mike Colle, on behalf of David Ramsay, MPP, and Shirley Yee, legal counsel.

Mr. Mike Colle: Zhuo Ling Huang has applied for special legislation to revive 1516495 Ontario Inc. The applicant represents that he was the director and sole shareholder of the corporation when it was dissolved. The corporation was dissolved under the Business Corporations Act on December 7, 2005, pursuant to articles of dissolution. The applicant represents that the dissolution was inadvertent and that business has been carried on in the name of the corporation despite the dissolution. It is appropriate to grant the application, therefore—anyway, that's basically it. It was an inadvertent situation that is no fault of the company or the applicant. I'm here on behalf of David Ramsay from Timiskaming to bring this bill forward.

The Chair (Mr. Michael Prue): Ms. Yee, do you have any comments?

Ms. Shirley Yee: No.

The Chair (Mr. Michael Prue): No? Okay, that's easy. Then are there any interested parties in the room? Anyone else who wishes to speak to this bill? Anyone else wish to speak? Seeing no one, parliamentary assistant, any comments?

Mr. Mario Sergio: This is a similar bill to others that we have seen in the past and I'm sure that it's not going to be the last time, until something is done with the similarity of the request. Ministries that have shown an interest in the bill, they have no problem with the bill. Again, I would like to commend the members for Timiskaming-Cochrane and Eglinton-Lawrence for bringing this to our attention and in aiding the applicant to come to the committee. So, having no problem with respect to the content of the bill, I'll move approval.

The Chair (Mr. Michael Prue): Are there any questions from committee members?

Mr. Paul Miller: I just have a question. Are there going to be any infringements here? Because Mandarin is a well-known restaurant in the Hamilton area; there's a few of them. So is that a name infringement there?

Ms. Shirley Yee: I don't think so. It's a totally different restaurant. It's called the New Mandarin Restaurant.

Mr. Paul Miller: I just wondered because there are two in Hamilton called Mandarin. It's a chain, so I just wondered.

Ms. Shirley Yee: No.

Mr. Paul Miller: Just don't want to get you in trouble.

Interjection: How's the food?

Mr. Paul Miller: How's the food? The food's good.

The Chair (Mr. Michael Prue): And I'm sure the food's good at New Mandarin as well. Any other questions? Seeing none, are the members ready to vote? This is on Bill Pr18, An Act to revive 1516495 Ontario Inc.

Shall section 1 carry? Carried.

Shall section 2 carry? Carried.

Shall section 3 carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? Carried.

Thank you very much.

0910

CEN-TOWER INVESTMENTS LIMITED ACT, 2009

Consideration of Bill Pr25, An Act to revive Cen-Tower Investments Limited.

The Chair (Mr. Michael Prue): Item 3 is Bill Pr25, An Act to revive Cen-Tower Investments Limited. The sponsor is Mr. Bailey, and the applicant is Gary Ingram, president, Cen-Tower Investments Ltd.

Mr. Bailey, you've seen the routine. The floor is now yours.

Mr. Robert Bailey: Thank you for your indulgence today. I'd like to introduce Mr. Ingram. He's a long-time constituent of mine.

Cen-Tower Investments was formed in 1959. At that time, the corporation was in need of additional property. They bought that. It was owned by the employees. At a later date, the engineering company moved to Sarnia and they sold the building with some of the land, but they retained approximately 1.62 acres in the 1980s. This land was sold to 479635 Ontario Ltd. in 2006 for the assessed value of \$24,000, and Cen-Tower was then involuntarily dissolved.

Mr. Ingram has applied for special legislation to revive Cen-Tower Investments—and that's listed in the preamble.

"The corporation was dissolved under the Business Corporations Act on February 12, 2007, pursuant to articles of dissolution" at that time. "The applicant would like to revive the corporation in order to deal with certain property that was held in the corporation's name at the time of the dissolution.

"It is appropriate to grant the application."

Therefore, I'd ask the committee's indulgence that they would grant this application for Mr. Ingram.

The Chair (Mr. Michael Prue): Mr. Ingram, any comments?

Mr. Gary Ingram: No, I think that's the story.

The Chair (Mr. Michael Prue): Okay. Are there any persons present, anyone else in the audience, who wishes to speak to this bill? Seeing no one, the parliamentary assistant, any comments?

Mr. Mario Sergio: No governmental agency has shown any particular concern with the bill, and I'd like to move approval as well.

I would like to recognize the efforts of the member from Sarnia. He has travelled all the way from Sarnia to be here and represent his constituent, and I think we have to recognize the work that he has put into bringing the bill to the attention of the members.

So I move approval.

The Chair (Mr. Michael Prue): Thank you. Any questions from committee members? Mr. Miller?

Mr. Paul Miller: Just a comment—well delivered by the member. I have no opposition. It's quite explanatory, and I have no problem.

The Chair (Mr. Michael Prue): Any other comments or questions? Seeing none, are the members ready to vote? Okay. This is on Bill Pr25, An Act to revive Centower Investments Limited.

Shall section 1 carry? Carried.

Shall section 2 carry? Carried.

Shall section 3 carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? Carried.

Thank you very much.

BRISMAIR PROPERTY MANAGEMENT INC. ACT, 2009

Consideration of Bill Pr27, An Act to revive Brismair Property Management Inc.

The Chair (Mr. Michael Prue): Okay, item 4. Boy, we're moving fairly rapidly this morning.

Mr. Paul Miller: You're good, Chairman.

The Chair (Mr. Michael Prue): Okay. This is consideration of Bill Pr27, An Act to revive Brismair Property Management Inc. The sponsor is Ms. DiNovo, and the applicant is Gregory Holder, parliamentary agent for the applicant.

Ms. DiNovo, you've seen how it works. The floor is yours.

Ms. Cheri DiNovo: Absolutely, and I'm delighted to be here with the applicant.

This is the preamble to the bill: "Neilda Mair and Lynval Mair have applied for special legislation to revive Brismair Property Management Inc. The applicants represent that when the corporation was dissolved, they were shareholders of the corporation and Neilda Mair was the sole director and officer of the corporation. The corporation was dissolved under the Business Corporations Act on November 16, 2007, pursuant to articles of dissolution. The applicants would like to revive the corporation in order to deal with certain property that was held in the corporation's name at the time of the dissolution."

I believe it's appropriate to grant the application. And welcome, Mr. Holder, to the Legislature.

The Chair (Mr. Michael Prue): Mr. Holder, do you have any comments?

Mr. Gregory Holder: Yes. One year after the corporation ceased carrying on active business, the applicants made an application to the Minister of Finance, and the corporation was dissolved on November 2, 2007. But the applicants declare that, being the owners of property that was in the corporation, they were not aware that the assets had to be distributed before dissolution. They subsequently went to deal with the assets, and the lawyer told them that they weren't able to and the corporation would have to be revived. It's necessary to have the corporation revived in order to permit them to do the distribution of the assets.

The Chair (Mr. Michael Prue): Okay. Are there any interested parties on this issue? Any interested parties present who wish to speak? Seeing none—parliamentary assistant?

Mr. Mario Sergio: The application was well circulated to the various ministerial agencies and they have no concern. We are pleased to see that the applicant has complied with the request to file the corporation return.

I'd like to mention the involvement, participation and work of the member for Parkdale—High Park in assisting the applicant in bringing this to the attention of the committee. We have no problem with the bill, and we concur with the intent of the bill.

The Chair (Mr. Michael Prue): Any questions from committee members? Mr. Miller?

Mr. Paul Miller: I just wondered why the government's being so nice to all the people today. I don't understand this. They've never done this before.

Mr. Kim Craitor: We do it every day.

Mr. Paul Miller: It's really nice. Thanks.

By the way, I'd like to compliment the member from High Park. She's done a good job on this, obviously, and there are no problems.

Once again I'll reiterate, you had to go to the lawyer again. Why didn't the lawyer tell them before that they couldn't sell the property when they went through all the process? Then the lawyer tells them after they go see him for the second time, "Oh, by the way, you can't sell that." I'm beginning to wonder. This is quite a scam.

The Chair (Mr. Michael Prue): I'm not sure whether that's a question the applicant wants to answer. It was a rhetorical question; was it not?

Mr. Paul Miller: It's a rhetorical question.

The Chair (Mr. Michael Prue): Mr. Ruprecht.

Mr. Tony Ruprecht: I wanted to address myself to the first point that Mr. Miller made and ask a question as well, and that is, aside from being on this committee—it is, of all the standing committees of the Legislature, the best committee to be on because as you can see, Mr. Miller, right here is great co-operation. That's why we move ahead quickly.

Aside from that, Mr. Miller actually makes a good point at the beginning of this meeting, and that is that when the NDP was in power, not much happened. When the Conservatives came in, they established what was called the "reducing the red tape commission"—whatever the title was; you remember that, Mr. Chair, as well, because you were here sitting on another committee

at that time. I remember Mr. Murdoch being intimately involved with the reduction-of-the-red-tape committee. Perhaps he's got a statement to make as well, but Mr. Miller's point is a good one because it's repeating itself over and over again on this committee for years, in fact for decades, and that is why we are asking people to come here. There may be a better way to do this without having the expense of meeting on these specific items and the expense of having people coming—transportation—and wasting their time.

So, Mr. Chair, I guess the question is up to you now, and that is, even though I can't make a formal motion at this time, I would like very much for you to look into this as well to see whether we can accommodate Mr. Miller's request.

The Chair (Mr. Michael Prue): I should say the committee has put this request forward during this session of Parliament. We have put forward if the government can look at ways of expediting a great many of the bills that we have before us. We have not had a response, but you have engendered some debate now.

I have Mr. Murdoch first and then Mr. Craitor.

Mr. Bill Murdoch: I'm not going to say a whole lot, but this is human nature, what happens, and this is the way the world works. That's why we're here to make it move as fast as we can. Sometimes some businesses get dissolved, and I think we're just lucky that we have this process where we're able to do it and to get all three parties working together.

As Mr. Ruprecht said, this is probably the best committee to be on because we do get along here a lot better than in some of the other committees, so it would just make things work much faster. There are going to be people who make mistakes and we're here to correct them.

Mr. Mike Colle: Mr. Chair?

The Chair (Mr. Michael Prue): I have Mr. Craitor and then Mr. Colle.

Mr. Kim Craitor: I hope this is televised so my constituents can see how we work together.

The Chair (Mr. Michael Prue): It's being translated.

Mr. Kim Craitor: On a serious note: Paul is right. I know we've posed this question about looking into this, but you made a really good point. When there's an application to dissolve a company—I'm curious now, sitting here and thinking about it—is there nothing that requires a lawyer or the process, however it works to dissolve it, to indicate the repercussions if you dissolve it—"If you do this, you cannot do certain things once you dissolve it"—so that people are fully aware that when they make that decision to dissolve it, as you said, Mr. Miller, they're going to lose some opportunities to do some things, that if they have to share assets or move things forward, they're going to lose all of that? Whenever it's appropriate, I'd like to know if that is part of the process.

0920

The Chair (Mr. Michael Prue): Okay. Mr. Colle.

Mr. Mike Colle: I just want to reaffirm what Mr. Murdoch has said, that thankfully this committee exists,

because there is no recourse for people in many decisions made by governments and many decisions made on their behalf by lawyers—the complexity. Thousands of these undertakings go through on a daily basis in this province. It's amazing that we do so few.

I think, for the people of Ontario, it's just like the committee of adjustment that takes place in all of our municipalities and the incredible work that they do. If you left everything to counsel and so forth, the cost of it to the ordinary taxpayer would be astronomical. Talk about lawyers' fees.

Anyway, let's not forget that we need more committees like this that deal with the daily human mistakes that are made in government. I just think we should not forget that, and I think Mr. Murdoch made that very clear. He reminded me of that very important point.

The Chair (Mr. Michael Prue): Mr. Miller again.

Mr. Paul Miller: I have no problem with the statements of Mr. Colle and Mr. Murdoch. However, we don't need to justify our existence. We can also streamline and make things work better. We don't have to do the same old thing as we always did. I don't see any reason why we can't make things better.

The Chair (Mr. Michael Prue): All right. I don't want to delay this process, because I can see that they're on tenterhooks down there. But we can do this under other business. If you want to reaffirm what we requested before of the government, we can do that with a motion at the end, okay?

Are the members ready to vote? Okay. This is Bill Pr27, An Act to revive Brismair Property Management Inc.

Shall section 1 carry? Carried.

Shall section 2 carry? Carried.

Shall section 3 carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? Carried.

Thank you very much.

1105481 ONTARIO INC. ACT, 2009

Consideration of Bill Pr28, An Act to revive 1105481 Ontario Inc.

The Chair (Mr. Michael Prue): The last bill before us today is Bill Pr28, An Act to revive 1105481 Ontario Inc. This will be Mr. Balkissoon, stepping in for Mr. Kular, and Dean Saul, legal counsel with Benjamin Westelman: I guess Benjamin Westelman is the title. Mr. Balkissoon.

Mr. Bas Balkissoon: I'm happy to be here on behalf of my colleague Kuldip Kular. With me is Benjamin Westelman, the legal counsel for the company 1105481. An application was made to revive the company.

As you can see in the notes that you received, the applicant would like to revive the corporation because there are certain properties that have to be dealt with by the corporation that was dissolved back on May 27, 2004.

It's another simple, straightforward application, so I hope the committee will deal with it pretty quickly. I don't know if Mr. Westelman has anything to add to it.

The Chair (Mr. Michael Prue): That's what I'm going to ask him. Isn't your name Dean Saul, though?

Mr. Benjamin Westelman: Ben Westelman.

The Chair (Mr. Michael Prue): Okay. Excuse me.

Mr. Benjamin Westelman: Dean couldn't be here.

The Chair (Mr. Michael Prue): We've got to get that correct in the record, then, because I have down Dean Saul as the legal counsel. You are Benjamin Westelman.

Mr. Benjamin Westelman: Yes. I'm a colleague of Dean Saul's.

The Chair (Mr. Michael Prue): Okay.

Mr. Benjamin Westelman: I don't have anything to add, unless there are any questions.

The Chair (Mr. Michael Prue): Okay, that's fairly simple then. Are there any interested parties? Anyone else in the room who wishes to speak to this? Seeing no one—parliamentary assistant?

Mr. Mario Sergio: The bill, again, is similar to others. Various ministries have no problem with the bill's process and it has no effect on any public legislation.

I compliment the members again for assisting the applicant in bringing the bill to our attention. I want to compliment, as well, MPP Balkissoon for aiding another member who cannot be present and assisting the applicant with the bill. I move approval of the bill, Mr. Chair.

The Chair (Mr. Michael Prue): Any questions from committee members? Seeing none, are the members ready to vote? This is on Bill Pr28, An Act to revive 1105481 Ontario Inc.

Shall section 1 carry? Carried.

Shall section 2 carry? Carried.

Shall section 3 carry? Carried.

Shall the preamble carry? Carried.

Shall the title carry? Carried.

Shall the bill carry? Carried.

Shall I report the bill to the House? Agreed.

Thank you very much.

CORPORATE REVIVAL PRIVATE ACTS

The Chair (Mr. Michael Prue): Now, there was some discussion during the bills. Would the clerk have a copy of that motion we made? I think it would be more appropriate if we leave it till the next meeting if that's agreeable to everyone. We should get a copy of what we—oh, wait a minute, maybe we have it. There we have it.

Interjection: Efficiency.

The Chair (Mr. Michael Prue): Efficiency. I thank legislative council. My goodness.

On Wednesday, April 23, 2008, a letter under my signature was sent to the Honourable Ted McMeekin, Minister of Government and Consumer Services. I can read it into the record if you want, and then we can say whether we want to change any part of it. It says:

"On behalf of the Standing Committee on Regulations and Private Bills, I wish to inform you of a motion that the committee adopted on April 9, respectfully requesting action on your part.

"As you know, the Standing Committee on Regulations and Private Bills is the committee to which all private bills are referred. Since the beginning of the current parliamentary session, the committee has considered several applications for private legislation seeking a corporate revival.

"On March 26, the committee requested information on the kinds of corporate dissolutions that need to be revived by private legislation. The committee's subsequent meeting on April 9 was attended by Mr. Allen Doppelt, your ministry's senior counsel, who answered the members' questions about corporate revivals under the Business Corporations Act and the Corporations Act by private act versus by an administrative process.

"Following the discussions on the matter, the committee adopted a motion to recommend, 'that the minister review the present state of notices of revival coming before (the) committee to determine whether or not they should be dealt with administratively.'

"I enclose, for your information, a copy of the April 9 committee Hansard, and I thank you in advance for your attention to this matter."

That was on April 23. I do not believe the committee has ever received a response. I would ask the parliamentary assistant to endeavour to get a response, but in the meantime, is there anything else we wish to add to what we said a year and a half ago? Mr. Balkissoon.

Mr. Bas Balkissoon: I would say, based on the person who was here from government services, most of the applications we dealt with today would still end up here, based on the explanation that was given to us that Parliament has to revive certain ones. There were some that Mr. Martiniuk from the Conservative Party clearly identified when we had that meeting as to what can be done by ministry staff. Seeing that we now have a new minister, I think it would be appropriate to request that you forward your letter again with a request for an update or a status as to where it is.

The Chair (Mr. Michael Prue): Is that your motion? That we resend the letter?

Mr. Bas Balkissoon: I'd be happy to do that. Sure.

The Chair (Mr. Michael Prue): Is there any discussion on the motion, before I hear the next? On the motion, Mr. Sergio.

Mr. Mario Sergio: Mr. Chair, I would agree that the request should come from the Chair on behalf of all the members of the committee, so I will support the motion. Not only do we have a new minister, but I think the request has been there for some time, and the new minister may answer accordingly. I think it's quite appropriate if the direction would follow from you as the Chair of the committee.

The Chair (Mr. Michael Prue): Mr. Ruprecht and then Mr. Miller.

Mr. Tony Ruprecht: Your comments helped me to change my original thought of moving a motion, and that

is that your recommendation indicated that one good way would be for the parliamentary assistant to talk to Mr. McMeekin without having a formal motion followed by this committee. Therefore, I'm going to vote against this motion and follow your advice that there should be a follow-up through the parliamentary assistant.

0930

The Chair (Mr. Michael Prue): Mr. Miller.

Mr. Paul Miller: In the motion, I think the whole basis for the original concept was to better the system to get information about why lawyers and why accountants aren't informed of the rules or why they aren't up to date, because a lot of them are not necessarily up to date on the reissuing of permits for the corporations. I think it's a lack of communication, and that was my concern. I don't really see that in the motion. It was the communication of the government rules to the lawyers and to the accountants of the province so that we can streamline the system.

You can read it again, but I didn't really see that in there. They're just stating what this committee does, what it's done in the past, why it's in existence and why we need it, but that wasn't the whole intent of what I was after. I don't see any of that in there. What do we do about that?

The Chair (Mr. Michael Prue): You would have to move an amendment to Mr. Balkissoon's motion if you want to amend—

Mr. Paul Miller: I would like to amend it.

The Chair (Mr. Michael Prue): What's the wording? What he has requested—what Mr. Balkissoon has asked is that the letter be re-sent to the new minister.

Mr. Paul Miller: I understand that, but in the letter there's no content. The real thing I'm after is not in there, so reissuing the same letter without the content that I was really after is useless.

The Chair (Mr. Michael Prue): So what amendment would you like to make that the committee can vote on?

Mr. Paul Miller: I would like an explanation from the ministry of why the lawyers and accountants in the province aren't up to date. It's going to save clients a lot of money, it's going to save a lot of aggravation for people if they know the rules offhand.

I'll give you a perfect example—

Interjection.

Mr. Paul Miller: Someone's shaking their head over there—I'll give you an example from today. If that lawyer today for that one case had said to the individual, "Oh, by the way, you can't dissolve the corporation because you have to sell that piece of land first"—he wasn't told that, and that's the reason he drove all the way from Sarnia to here. If that lawyer had told him in the first place that he'd have to sell the land, he wouldn't have gone through all that aggravation of time, money, and going back to see the lawyer again.

Mr. Murdoch said that people make mistakes and make errors. He's absolutely correct, but this is obvious stuff. It's just extending the process and costing more aggravation and money for people. I don't understand. None of that's in that motion, and that's what my concern

is. Why the heck can't the basic things, simple things like that be told, which the lawyer should be aware of? If he's dealing with his client, he should be aware of the act and what is involved in the act.

I don't understand. I've heard nothing in that area. It's very frustrating.

The Chair (Mr. Michael Prue): Now, if I can assist you, I don't believe that this will be a proper amendment because it's outside, but a separate motion could be made. If you want to think about it for a minute while we deal with this—

Mr. Paul Miller: Can we take a five-minute break and I'll go write something down?

The Chair (Mr. Michael Prue): We can, or we can just continue to deal with this and you can write something. I would think that you would put forward a motion requesting that the ministry provide letters to lawyers and accountants dealing in this field outlining the consequences of not following the rules, and that it may result in long and protracted—

Interjection.

The Chair (Mr. Michael Prue): Yes, that the committee write and say that if the minister could put out some kind of documentation informing them of this so that people aren't put in the long, protracted process of having to come before this committee.

Mr. Paul Miller: Yes, basically that they should have the ability to seek the knowledge required.

The Chair (Mr. Michael Prue): If you can put down exactly what you want, I'm going to go to the other speakers on the issue of whether or not we can send the letter.

Mr. Murdoch.

Mr. Bill Murdoch: I was just going to talk on Paul's, because you can't ask the ministry why people do dumb things, and that's basically what you were saying. You were saying, "Why is this happening?" The minister won't know why it's happening because it's just happening out there.

Mr. Paul Miller: But that's not my point of order. That's incorrect. Sorry, Bill, that's not what I meant. What I'm saying is that if the proper information is given to the public, including lawyers and accountants, on the rules and regulations governing these types of situations, then maybe some people wouldn't have to go through all this aggravation.

Mr. Bill Murdoch: Yes, we could request, then, that the ministry do some PR work. That's about what you're saying. There's always going to be somebody making mistakes, and it's going to have to come here and be looked after. The ministry can't answer for that.

Mr. Paul Miller: There's no question that people will make mistakes and the committee is still required. What it is, is the fact that there are some simple things that we can deal with so they won't make the mistake.

Mr. Bill Murdoch: And I think a lot of times some of the lawyers just don't realize that or people don't even use a lawyer and they dissolve themselves. As Mike said, there are thousands of these happening. We're just getting a few because we have—

The Chair (Mr. Michael Prue): Okay. Mr. Sergio, and then Mr. Balkissoon.

Mr. Mario Sergio: I can sympathize with what the member is saying, but when we have applicants in front of the committee, I believe we only have half of the story. We really don't know the background, why this really has happened. It may not be so straightforward that a particular corporation has fallen, has been dissolved or whatever, and most of the time they are dissolved because people are no longer interested.

I doubt very much that a lawyer knowingly wouldn't consult a client properly, saying, "If you let it lapse, it's going to cost you to bring it back to life or you may have to file a new charge," or whatever. I really doubt it.

First of all, accountants, lawyers—we can't tell them what to do, and I believe that they know what is involved. The problem is that once an application is in front of this committee we have to deal with it. We cannot delve into the past and say, "How come this application has lapsed?" There are many reasons and perhaps the real reason has not been brought, and it's not our business how it has happened. It is our business here to deal with the application in front of us, if we want to revive the corporation or not revive the corporation. We can ask the minister, yes, in some way, in some form, but to say, "Why the accountants, why the lawyers?" I don't think it's our place, to be honest with you, and I don't think it's the place of the minister as well.

The Chair (Mr. Michael Prue): I want to go back to Mr. Balkissoon. We have a motion before us. We don't have the motion yet from Mr. Miller, so let's not talk about that until he forwards the motion. Then we can discuss that.

Mr. Bas Balkissoon: I just want to go back to something Mr. Colle said, to remind committee. We see three or four of these at each meeting, or maybe even one, but the reality is we don't know how many the ministry has processed. This is the one anomaly that shows up in front of us. I think the reason we had this motion, and I sat through the meeting when the ministry staff was here and spoke to us, is because we had a concern that some of them coming in front of us could have been resolved—as an example, where a corporation was dissolved by a ministry because they had no communications with the company and they had mailed it to the wrong address or whatever. But when you really look at the logistics of that, it's impossible for the ministry to be in control of that. If the owner of the company is moving—in one case that we had here, the owner had moved to another country and then the purchaser of the company was back here claiming rights to a second sale that took place. I

think that when you look at all those logistics of what happens in the business world, you can't expect a ministry to solve all of them.

If you look at legislation, this committee is the only committee with the power to revive certain corporations based on the ministry's rules. For us to pick on the one or two that we get here and be so concerned about it, I think we really have to measure how many the ministry has processed without our knowledge versus the ones that come here.

I sympathize with Mr. Miller. I'm not sure he was here when we had that meeting, but sitting here, it looks so simple. We're here for 10 minutes and we're gone. But unfortunately, law, the political process and the legislative process is the only way to do it. We sent a letter, and I support you sending a letter again, asking for a status, because we do have a new minister.

The Chair (Mr. Michael Prue): Okay, anything else on resending the letter, just on resending the letter? All those in favour of resending the letter, please indicate. Opposed? That carries.

Mr. Miller, do you have a second motion?

Mr. Paul Miller: Yes. It's not detailed. It may have to be massaged a little bit, but this is basically what I'm saying here: That the government make information available to lawyers and accountants of the rules governing corporations that are dissolved or renewed to eliminate costs to the individuals who are involved in the corporations.

The Chair (Mr. Michael Prue): Is that written down? Can you give it to the clerk?

Mr. Paul Miller: It's a little rough, but I can give it to him.

The Chair (Mr. Michael Prue): He needs it right now.

Mr. Paul Miller: Okay. Just a minute. Give me a minute. Bear with me.

Mr. Bill Murdoch: They're going to say that they already do that, so you've got to say, we would like to know when they do that.

The Chair (Mr. Michael Prue): Mr. Miller, rather than doing this on the fly, can it be done for the next meeting?

Mr. Paul Miller: That's fine.

The Chair (Mr. Michael Prue): All right. I think, then, we will allow that to be filed at the next meeting.

Is there any other business before the committee? Anybody else have any other business? Seeing none, meeting is adjourned.

The committee adjourned at 0940.

CONTENTS

Wednesday 4 November 2009

Allaura Investments Limited Act, 2009 , Bill Pr15, <i>Mr. Klees</i>	T-77
Mr. Frank Klees, MPP	
Mr. Irving Burton	
1516495 Ontario Inc. Act, 2009 , Bill Pr18, <i>Mr. Ramsay</i>	T-78
Mr. Mike Colle, MPP	
Ms. Shirley Yee	
Cen-Tower Investments Limited Act, 2009 , Bill Pr25, <i>Mr. Bailey</i>	T-78
Mr. Robert Bailey, MPP	
Mr. Gary Ingram	
Brismair Property Management Inc. Act, 2009 , Bill Pr27, <i>Ms. DiNovo</i>	T-79
Ms. Cheri DiNovo, MPP	
Mr. Gregory Holder	
1105481 Ontario Inc. Act, 2009 , Bill Pr28, <i>Mr. Kular</i>	T-80
Mr. Bas Balkissoon, MPP	
Mr. Benjamin Westelman	
Corporate revival private acts	T-81

STANDING COMMITTEE ON REGULATIONS AND PRIVATE BILLS

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T-16

T-16

ISSN 1180-4319

Legislative Assembly of Ontario

First Session, 39th Parliament

Official Report of Debates (Hansard)

Wednesday 18 November 2009

Standing Committee on Regulations and Private Bills

Registered Retirement Savings
Protection Act, 2009

Assemblée législative de l'Ontario

Première session, 39^e législature

Journal des débats (Hansard)

Mercredi 18 novembre 2009

Comité permanent des règlements et des projets de loi d'intérêt privé

Loi de 2009 sur la protection
des régimes enregistrés d'épargne
en vue de la retraite

Chair: Michael Prue
Clerk pro tem: Trevor Day

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Telephone 416-325-7400; fax 416-325-7430
Published by the Legislative Assembly of Ontario



Service du Journal des débats et d'interprétation
Salle 500, aile ouest, Édifice du Parlement
111, rue Wellesley ouest, Queen's Park
Toronto ON M7A 1A2
Téléphone, 416-325-7400; télécopieur, 416-325-7430
Publié par l'Assemblée législative de l'Ontario

LEGISLATIVE ASSEMBLY OF ONTARIO

**STANDING COMMITTEE
ON REGULATIONS
AND PRIVATE BILLS**

Wednesday 18 November 2009

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

**COMITÉ PERMANENT DES
RÈGLEMENTS ET DES PROJETS DE LOI
D'INTÉRÊT PRIVÉ**

Mercredi 18 novembre 2009

The committee met at 0901 in room 151.

SUBCOMMITTEE REPORT

The Chair (Mr. Michael Prue): I call the meeting to order. Any preliminary statements before we hear witnesses?

Interjection.

The Chair (Mr. Michael Prue): Oh, excuse me. Yes, the subcommittee. I don't have a cheat sheet in front of me. The subcommittee is first.

Mr. Mike Colle: I'll read the report of the subcommittee.

Your subcommittee met on Tuesday, November 10, 2009, to consider the method of proceeding on Bill 96, An Act respecting protection for registered retirement savings; Bill 106, An Act to provide for safer communities and neighbourhoods; Bill 14, An Act to deem that the Building Code and the Fire Code require fire detectors, interconnected fire alarms and non-combustible fire escapes; and Bill 132, An Act to amend the Liquor Licence Act; and recommends the following:

(1) That the committee meet in Toronto on Wednesday, November 18, 2009, for the purpose of public hearings on Bill 96.

(2) That interested parties who wish to be considered to make an oral presentation on Bill 96 contact the committee clerk by 12 noon on Friday, November 13, 2009.

(3) That the deadline for written submissions to Bill 96 be 9 a.m. on Wednesday, November 18, 2009.

(4) That, for administrative purposes, proposed amendments to Bill 96 be filed with the committee clerk by 11 a.m. on Wednesday, November 18, 2009.

(5) That the committee meet in Toronto on Wednesday, November 25, 2009, for the purpose of public hearings on Bill 106.

(6) That interested parties who wish to be considered to make an oral presentation on Bill 106 contact the committee clerk by 12 noon on Friday, November 20, 2009.

(7) That the deadline for written submissions to Bill 106 be 9 a.m. on Wednesday, November 25, 2009.

(8) That, for administrative purposes, proposed amendments to Bill 106 be filed with the committee clerk by 11 a.m. on Wednesday, November 25, 2009.

(9) That the committee meet in Toronto on Wednesday, December 2, 2009, for the purpose of public hearings on Bill 14.

(10) That interested parties who wish to be considered to make an oral presentation on Bill 14 contact the committee clerk by 12 noon on Friday, November 27, 2009.

(11) That the deadline for written submissions to Bill 14 be 9 a.m. on Wednesday, December 2, 2009.

(12) That, for administrative purposes, proposed amendments to Bill 14 be filed with the committee clerk by 11 a.m. on Wednesday, December 2, 2009.

(13) That the committee meet in Toronto on Wednesday, December 9, 2009, for the purpose of public hearings on Bill 132.

(14) That interested parties who wish to be considered to make an oral presentation on Bill 132 contact the committee clerk by 12 noon on Friday, December 4, 2009.

(15) That the deadline for written submissions to Bill 132 be 9 a.m. on Wednesday, December 9, 2009.

(16) That, for administrative purposes, proposed amendments to Bill 132 be filed with the committee clerk by 11 a.m. on Wednesday, December 9, 2009.

(17) That the committee clerk, with the authorization of the Chair, post information regarding public hearings on the Ontario parliamentary channel, the Legislative Assembly website and Canada NewsWire.

(18) That groups and individuals be offered 10 minutes for their presentation. Any portion of this time not used for presentation may be used for questions from committee members.

(19) That, in the event all witnesses for any bill cannot be scheduled, the committee clerk provide the members of the subcommittee with a list of requests to appear for that bill.

(20) That the members of the subcommittee prioritize and return the list of requests to appear by 12 noon on the following business day.

(21) That, in the event the time apportioned to public hearings on any bill is not required, the committee may commence clause-by-clause consideration of the bill during the morning meeting.

(22) That the committee clerk, in consultation with the Chair, be authorized prior to the adoption of the report of the subcommittee to commence making any preliminary arrangements necessary to facilitate the committee's proceedings.

That's the subcommittee report, Mr. Chairman.

The Chair (Mr. Michael Prue): I'll need a motion to accept. Any discussion? I have never seen discussion on this before. A motion to accept?

Mr. Mike Colle: So moved.

The Chair (Mr. Michael Prue): So moved. All in favour? Opposed? Carried.

REGISTERED RETIREMENT SAVINGS PROTECTION ACT, 2009

LOI DE 2009 SUR LA PROTECTION DES RÉGIMES ENREGISTRÉS D'ÉPARGNE EN VUE DE LA RETRAITE

Consideration of Bill 96, An Act respecting protection for registered retirement savings / Projet de loi 96, Loi visant à protéger les régimes d'épargne-retraite enregistrés.

CANADIAN LIFE AND HEALTH INSURANCE ASSOCIATION

The Chair (Mr. Michael Prue): We have a presenter. The first presenter is the Canadian Life and Health Insurance Association: Frank Zinatelli, vice-president, legal services.

For the purposes of Hansard, if the gentlemen could introduce themselves so that when words are spoken, they know who is speaking.

Mr. Frank Zinatelli: Thank you, Chairman. My name is Frank Zinatelli, as I'll state more formally in a second.

Mr. David McKee: David McKee.

The Chair (Mr. Michael Prue): Please proceed.

Mr. Frank Zinatelli: Thank you, Mr Chairman and members of the committee. I would like to thank the committee very much for giving us this opportunity to contribute to your review of Bill 96. My name is Frank Zinatelli and I am vice-president, legal services, and associate general counsel of the Canadian Life and Health Insurance Association. I am accompanied today by my colleague Dave McKee, vice-president and associate general counsel of Sun Life Financial.

We welcome this opportunity to make constructive contributions to the committee as you seek to develop your report to the Legislative Assembly on this important bill. And we would like to congratulate Mr. Leal on his sponsorship of this bill.

With your permission, Chairman, we would like to make a few introductory remarks.

By way of background, the CLHIA represents life and health insurance companies accounting for 99% of the life and health insurance in force across Canada. The industry protects 26 million Canadians and some 20 million people internationally.

The life and health insurance industry is a significant economic and social contributor to Ontario. It protects about 9.9 million Ontario residents and makes \$29.3

billion a year in benefit payments to Ontario residents. In addition, the industry has \$175.4 billion invested in Ontario's economy. A large majority of life and health insurers that carry on business in Canada are licensed to operate in Ontario, and 68 of them have their head offices in the province.

As you may be aware, in the case of life insurance, some limited protections from creditors are already provided under the Insurance Act which allow an insured to plan for the future welfare of his or her family members or other dependants by designating them as a family or irrevocable beneficiary, thus helping to ensure that the payment of guaranteed insurance proceeds, on the insured's death, are free of creditor claims against the insured or her or his estate.

More specifically, there is protection where a beneficiary is designated irrevocably or where a beneficiary designation is in place in favour of a spouse, child, grandchild or parent of the registered plan holder.

Identical provisions exist in every common-law jurisdiction, and very similar provisions exist in Quebec, making for a regime that works effectively to provide protection for policyholders and their families across Canada.

0910

The life and health insurance industry took the position many years ago that creditor protection legislation such as Bill 96 serves a valuable social goal in promoting and protecting retirement savings for Canadians and their dependants, and the industry has been generally supportive of such legislation as it has been introduced in other provinces. That being said, we have been concerned with some of the provincial acts because there are variations between these provincial acts and because of the complexity and sometimes unintended consequences created by these statutes. Ontario's Bill 96 raises a key issue of concern and raises a number of questions as to the ultimate impact that the bill will have on registered products, particularly the millions of policyholders who are already protected to some degree under insurance contracts.

This morning, we would like to focus our remarks on outlining some of the issues that we have identified to date with respect to Bill 96 and suggest how the policy objective of protecting registered plans from creditors can be achieved without reducing the already-existing protections that have existed for decades for life insurance policyholders.

Let's start with section 4 of the bill, which provides that payments out of a registered plan would not be protected from creditors. Think about it: An individual has been saving for years using a registered vehicle, following good financial advice, consistent with what public policy suggests is a laudable goal; that is, saving for retirement. Then, when the individual needs the funds from the registered product, the financial institution starts to make payments. But at that point, creditors have access to those monies and may seize them. It simply does not make logical sense, and yet that is exactly what section 4 provides.

The whole reason for creditor protection is to allow people to save for retirement, and the purpose of saving for retirement is so that you can have an income. Section 4 puts that income at risk by making it subject to any enforcement process by creditors.

You may be wondering why the life and health insurance industry is concerned about this, given that some limited protections, as I indicated earlier, already cover its life insurance and annuity products and given that payments out of such products are not accessible to creditors. Unfortunately, as a result of section 5 of the bill, holders of life insurance annuities could be very much affected, and creditors will insist that payments out would no longer be protected. This is because section 5 of Bill 96 provides that the bill supersedes any other act if there is a conflict. The result is that section 4, in conjunction with section 5, would eliminate creditor protection for annuity payments, which is currently the law in Ontario. Effectively, then, these two provisions would do away with the rationale for providing creditor protection at all: the need for income during retirement. Indeed, as written, the Bill 96 amendments would reduce the existing protections from creditors for over four million individuals in Ontario who now hold annuity products from life insurers, and it would do this to existing products, one could say, retroactively. This clear reduction to rights that the Insurance Act currently provides to Ontario residents is, in our view, extremely inappropriate and inconsistent with the public policy goal of encouraging individuals to save for retirement.

A related issue that needs to be reviewed concerns pension monies that are exempt from execution pursuant to section 66 of the Pension Benefits Act. While there is an exemption in section 2 of the bill, we have received questions from our members that suggest that section 5 of Bill 96 might override the pension legislation exemptions and make the payments accessible to creditors. Consequently, we believe that a more detailed review needs to be done to ensure that such pension monies continue to be protected.

The purpose of the bill, as stated in the explanatory note, is to protect RRSPs, RRIFs and DPSPs from creditors. While this statement of purpose says nothing about reducing current protections that have worked well for decades, this is effectively what is being done. While Bill 96 could be a “win” for savers in that it would allow people to save for their retirement without fear of attacks by creditors, as it now reads, it exposes the benefits of that savings discipline to those same creditors. Again, this is not a logical and appropriate result.

In the case of annuities and perhaps pension statements—because there’s some uncertainty there, in our view—as noted above, one solution would be to amend the Insurance Act and perhaps the Pension Benefits Act to specifically override the impact of Bill 96. Other possible solutions are addressed below.

While the points above are the essential ones that the life and health insurance industry wanted to raise, there are some other matters and questions that we would like to flag for you.

Please note that section 3 of the bill states that the protection provided by the bill, as well as the protections provided by subsections 191(1) and 196(1) of the Insurance Act, would not apply to an enforcement process to satisfy an order made under the Family Law Act or similar legislation in other provinces and territories, or under the Family Responsibility and Support Arrears Enforcement Act, 1996.

The industry generally agrees with the policy intent of this provision, but we query whether this bill, which is not well known, is the right place to move forward to implement this important goal. We suggest that such a provision would best be considered in the context of amendments to the two statutes just referred to. We would also note that we believe the appropriate Insurance Act section reference—the second one—should be to subsection 196(2) of the Insurance Act. Otherwise, it would leave policies with family-member beneficiaries protected from enforcement orders under the Family Law Act, which we do not believe is the intent of the bill as drafted.

In summary, the industry believes that the policy objective of protecting registered plans from creditors can be achieved without reducing existing protections for current holders of insurance registered products. Consistent with our suggestion above that the Insurance Act and perhaps the Pension Benefits Act would need to be amended to specifically override the impact of the proposed Bill 96 provisions, we also suggest as follows:

Provide more time for stakeholders to address these issues, and other more technical questions which we have not raised today, with both the sponsor of this bill, Mr. Jeff Leal, and with the department of finance, which would ultimately be responsible for the legislation once it’s passed.

An essential step forward would be, first, to delete the current section 5 or, secondly, to provide clearly that section 5 does not override the Insurance Act and the Pension Benefits Act.

The first of these two suggestions would be preferred, from our point of view.

The industry greatly appreciates this opportunity to contribute to the committee’s review of Bill 96. Thank you for your attention.

Chairman, we would be happy to answer any questions that you or committee members might have.

The Chair (Mr. Michael Prue): I would do that, except that I believe you’ve actually exhausted the time. Mr. Ruprecht—the time is exhausted. Was it a question you had?

Mr. Tony Ruprecht: Yes, just very quickly. Thanks to—

The Chair (Mr. Michael Prue): No, no.

Mr. Gerry Martiniuk: If you give it to him, you can give it to us.

The Chair (Mr. Michael Prue): No, I can’t do it unless we open it up to everybody. So there is no time for questions.

Mr. Bill Murdoch: Are there any other presenters?

The Chair (Mr. Michael Prue): That's what I have to ask next. Are there any other presenters?

I'd need a motion. The rules are quite clear.

Mr. Gerry Martiniuk: I move two minutes per caucus.

Mr. Bas Balkissoon: I second that.

The Chair (Mr. Michael Prue): We have a motion here to move two minutes per caucus for questions. Okay? All in favour? Opposed, if any? That's carried.

So we will start. Since Mr. Ruprecht asked first, we'll let him go first.

Mr. Tony Ruprecht: Thank you to Mr. Zinatelli and Mr. Leal, whose fingerprints are all over this document.

One question in terms of clarification, Mr. Zinatelli, and that is your reference to subsection 196(2), which is, to my mind, very important. It refers to family members getting their hands on some of this money that has been set aside. Can you give us an example? You were referring to subsection 196(2), which says that it would leave policies with family-member beneficiaries protected from enforcement orders under the Family Law Act—which, as you say, was not the intent. Can you give us one example of that?

Mr. Frank Zinatelli: Maybe I can turn to my colleague, David, on this one.

0920

Mr. David McKee: I think the point simply is that the section reference is just incorrect. The section that protects the family beneficiaries is actually subsection 196(2), not 196(1). The effect of the section here is, first, that subsection 196(2) protects annuity contracts from creditors where the beneficiary is a spouse, child, parent or grandchild of the annuitant. This subsection is taking that protection away where the debt that's being enforced is a debt for support or maintenance.

We're just trying to suggest that from a technical perspective the section reference should be 196(2), not 196(1).

Mr. Tony Ruprecht: I see. So it's in terms of process, basically; right?

Mr. David McKee: Yes.

Mr. Frank Zinatelli: We believe that's what was meant. When you're typing, the 1 and the 2 are pretty close together.

Mr. Tony Ruprecht: Thank you. I appreciate that answer.

The Chair (Mr. Michael Prue): That's the entire two minutes. To Mr. Martiniuk.

Mr. Gerry Martiniuk: Very quickly—and I apologize because I had to step out and I may have missed this—I always thought that registered retirement savings plans had some protection under either the Bankruptcy Act or the Insurance Act.

Mr. Frank Zinatelli: They do indeed, and this is what we're saying. We have these protections under the Insurance Act which are carried over under the Bankruptcy Act by incorporation. What I believe the purpose of this bill is to do is to extend protections to non-insurance RRSPs and other registered products, which we totally

support, but I think there is an unintended effect here which would say that when you're actually getting the money paid to you, then creditors could have access to it. That doesn't happen with insurance products, whereas now we have protection, in my view. I think it's an unintended effect of it.

Mr. Gerry Martiniuk: Okay. Do you have a suggested draft amendment that would cure the problem you see here?

Mr. Frank Zinatelli: Yes. I think you can easily do it by deleting section 5 or by saying in section 5 that it's subject to the Insurance Act and then maybe carry on. Maybe that simple change will alleviate the problems. I'm sure that there are better technical ways of doing that, but wording like that would really be helpful to continue the protection that's in place now for those millions of annuity holders.

Mr. David McKee: Our concern is that the unintended effect of the bill is to take protection away that already exists, and the suggestion that Frank just outlined is to address that.

Mr. Gerry Martiniuk: Thank you.

The Chair (Mr. Michael Prue): That's the two minutes. Mr. Miller.

Mr. Paul Miller: I support your philosophy here. I believe that that section should be removed. Just on a side note, maybe the insurance company could take out insurance to protect their clients. That might be a good idea.

My one concern is about questionable conduct: when people buy insurance policies to avoid debt and also for other unscrupulous things. What is in this bill to protect family members or other people from manoeuvres by people to use the Insurance Act to better their situation when they've done something illegal? What is in there to do that?

Mr. David McKee: Certainly family members are protected by subsection 3(2), which allows maintenance debts to still be enforced. More generally in terms of people trying to avoid their creditors, the fraudulent conveyance legislation would be used and has been used in the courts to address those kinds of transactions.

Mr. Paul Miller: You mean like for Bernie Madoff and people like that?

Mr. David McKee: Fraudulent conveyance is, if someone transfers property to avoid their creditors, the Fraudulent Conveyances Act can be brought to bear to say that that transfer is void.

Mr. Paul Miller: My point, quickly, is that I think there should be an amendment to toughen up that area because I don't feel there's enough in either the bankruptcy or insolvency acts or the Insurance Act. I really feel it has weak areas, vulnerable technicalities that have to be filled, and hopefully we could move in that direction also.

The Chair (Mr. Michael Prue): Thank you, Mr. Miller. That's your two minutes as well.

Mr. Frank Zinatelli: Thank you, Chairman and members of the committee.

Mr. David McKee: Thank you.

The Chair (Mr. Michael Prue): I did ask, but I'm going to ask one more time: Is there anybody else who wishes to speak to the bill? We don't have any other listed députants.

Seeing none, are there any comments, questions or amendments to any section of the bill? Are people wanting to make amendments to the bill? If so, we can take a short recess in order to allow those to be written out.

Mr. Jeff Leal: Thanks, Chair; that would be fine. We are working on an amendment right now.

The Chair (Mr. Michael Prue): How long shall we take? Ten minutes?

Mr. Mike Colle: I move 10 minutes.

The Chair (Mr. Michael Prue): We have a motion for a 10-minute recess. All those in favour? Opposed? That's carried. We'll see everybody back in 10 minutes.

The committee recessed from 0925 to 0935.

The Chair (Mr. Michael Prue): We'll call the meeting back to order. I understand that all of the amendments have now been circulated by the clerk. We'll go through the bill clause by clause.

There are no amendments to section 1. Shall section 1 carry? Carried.

There are no amendments to section 2. Shall section 2 carry? Carried.

Section 3: We have two amendments to section 3. The first one is 0.1, and I believe these are all being moved by Mr. Leal.

Mr. Jeff Leal: I move that subsection 3(2) of the bill be amended by striking out "and subsections 191(1) and 196(1) of the Insurance Act" in the portion before clause (a).

The Chair (Mr. Michael Prue): Any discussion on that?

Mr. Gerry Martiniuk: What does that do to the bill? Could you explain it to us?

The Chair (Mr. Michael Prue): Mr. Leal, the question here is: What does that do? What does that accomplish?

Mr. Leal is pointing to legislative counsel.

Ms. Laura Hopkins: This amendment removes the reference to the Insurance Act in this subsection. This subsection is the subsection that makes it possible to collect family law orders against the registered plans. The removal of the reference to the Insurance Act removes those kinds of plans from the possibility of family law collections being executed against them.

Mr. Paul Miller: Wait a minute. You're telling me that this is removing the ability of a mother to get coverage for her children from a man's insurance policy, for example? Is that what that's saying?

Ms. Laura Hopkins: I believe that the effect of this is to make the rules under the Insurance Act apply rather than the rules under this act apply. And—

Mr. Paul Miller: Sorry to interrupt, but my question would be: Would this in any way prohibit a mother or father from getting access to money that's owed to them for the benefit of the children? Would this inhibit that or

would it help them by moving it to another section? I want to know if this is positive or negative, in your opinion, for those people.

Ms. Laura Hopkins: I'm not familiar with the rules under the Insurance Act, and those would be the rules that apply. It may be that the presenters have greater expertise in this area than I do. I'm sorry; I'm not able to help with that.

Mr. Paul Miller: With all due respect, if that's the case, and there's not an explanation that's suitable, I would not support that because the children come first and they should have access to whatever money is available to help them. So I'm having a problem with this one. If they can rectify that for me—

Mr. Bas Balkissoon: It's covered under the Insurance Act.

Mr. Paul Miller: I want an explanation on this.

The Chair (Mr. Michael Prue): We have time, so let's take our time and do it right. This is very fast, to put a bill through in one day.

Mr. Paul Miller: Yes.

The Chair (Mr. Michael Prue): So let's make sure that everybody's satisfied, or members can vote it down.

Mr. Paul Miller: And can I have this explanation recorded, please?

The Chair (Mr. Michael Prue): Absolutely. The lawyer is getting an explanation and will come back and explain what the purport of this motion is.

Mr. Paul Miller: I'd like a recorded vote on this too.

The Chair (Mr. Michael Prue): Yes.

Mr. Paul Miller: And I want the explanation on the record. This could be critical to—

Mr. Jeff Leal: Mr. Miller, I think we have an explanation for you, sir. I just want the legal counsel to provide it for you, and we can get it in the record.

Ms. Laura Hopkins: I understand from the presenters that the Insurance Act currently doesn't make it possible for family law collections to be executed against these kinds of registered plans. So this would result in full protection of these registered plans if they're governed by the Insurance Act.

Mr. Paul Miller: All right, thank you. I will not be supporting that.

Mr. Gerry Martiniuk: I thought that the exemption for the Family Law Act was appropriate. We especially have great difficulty collecting from persons who aren't employed. I remember sitting on the justice committee. We had a lawyer whose girlfriend drove a rather fancy car and they lived in a fancy home, and he wasn't paying support for his six children simply because there was nothing to garnish. That leads to a great deal of difficulty, and I'd like to be on the record that I think our party is in favour of ever-widening rights for the protection of children in family law matters. I cannot support the proposition as put forth. I think that is a backward step from this bill.

0940

The Chair (Mr. Michael Prue): Any other speeches to this?

Mr. Bill Murdoch: I was going to say: Is that what you want? I don't think it's what Mr. Leal wanted, anyway. We want to get it right, so I don't think it's whether we agree or disagree. I think we want to get it right before we do it, so I'd like Jeff—what do you say?

Mr. Jeff Leal: Mr. Chair, we obviously want to get it right, so would it be appropriate to come back after 12—if we could take some time this morning to get it right?

Mr. Paul Miller: I have no problem. I believe Mr. Leal wants to do this right, and I think that this is a very critical part that someone may have overlooked that may have a negative impact on single mothers in this province, and fathers as well. So I think we have to be very careful what we're doing here. I would give him all the time he wants to get it right, so I agree.

The Chair (Mr. Michael Prue): All right. What we'll do, then, is we'll hold down this and move on, if that's okay with others.

Mr. Gerry Martiniuk: I move that we adjourn until 12.

The Chair (Mr. Michael Prue): For all of it, or—

Mr. Paul Miller: There's one more clause.

The Chair (Mr. Michael Prue): Oh, no, there's two—

Mr. Gerry Martiniuk: No, let's carry on at that time.

Mr. Jeff Leal: There are two more amendments that we can deal with, and we can come back and deal with them.

The Chair (Mr. Michael Prue): The only thing left to deal with will be this one. So it won't take very long at 12, okay?

Mr. Gerry Martiniuk: Okay.

The Chair (Mr. Michael Prue): All right.

We're standing down amendment 0.1. The next amendment being proposed by Mr. Leal is number 1.

Mr. Jeff Leal: I move that subsection 3(2) of the bill be amended by striking out "or" at the end of clause (a) and by adding the following clauses:

"(c) to satisfy an order made under the Interjurisdictional Support Orders Act, 2002; or

"(d) otherwise to recover support or arrears of support."

Mr. Paul Miller: I think this falls under the same umbrella. I will not support that the way it is. That has to be corrected. So if you want to take time to investigate that one—I think they're connected interprovincially. Would that be correct?

Ms. Laura Hopkins: The effect of this amendment would be to ensure that family law collection matters that are enforceable under the Interjurisdictional Support Orders Act can be executed against—

Mr. Paul Miller: Insurance?

Ms. Laura Hopkins: Yes.

Mr. Jeff Leal: This effectively, Mr. Miller, strengthens the bill for collections.

Mr. Paul Miller: Okay. All right.

Mr. Jeff Leal: It's something that you have articulated well.

Mr. Paul Miller: Yes, thank you. I have no problem with that if it strengthens the position.

Mr. Jeff Leal: Mr. Miller, this is a common section that's in the other provinces that have this: British Columbia, Alberta, Saskatchewan, Prince Edward Island, and Newfoundland and Labrador, and the latest province to introduce this type of legislation was former Premier Doer in Manitoba. That's the last—

Mr. Paul Miller: Nova Scotia and New Brunswick don't have it.

Mr. Jeff Leal: As of yet, but it's gradually moving across the country.

Mr. Paul Miller: Good. Thank you.

The Chair (Mr. Michael Prue): Okay. So you've heard that—

Mr. Gerry Martiniuk: Question.

The Chair (Mr. Michael Prue): I'm calling the question.

All those in favour of the motion? Opposed? That's carried.

The next motion, I have been advised—

Interjection.

The Chair (Mr. Michael Prue): Yes. The next motion that Mr. Leal was to make is on section 5. It is tied into the first motion.

Mr. Jeff Leal: That is correct.

The Chair (Mr. Michael Prue): Therefore, we're going to hold that down as well.

Mr. Jeff Leal: I appreciate that.

The Chair (Mr. Michael Prue): Okay. So now what we're going to do is we're going to deal with the other sections.

Shall section 4 carry? Carried.

Shall section 6 carry? Carried.

Shall section 7 carry? Carried.

Shall the title carry? Carried.

All right. We will leave three items for this afternoon, those being section 3, section 5 and whether or not to proceed the bill to the House. That should not take too long, hopefully, if everyone can be here promptly at 12.

Mr. Paul Miller: Mr. Chair, who's going to draft the amendments to this?

Ms. Laura Hopkins: I am.

Mr. Paul Miller: You'll draft them, and Mr. Leal will—

The Chair (Mr. Michael Prue): I think it will be Mr. Leal, and we'll have a full explanation on what they mean.

This meeting is recessed until 12 o'clock. Please be prompt. I know that people want to go to lunch and other things, so we don't want to take any more time than necessary at 12.

The committee recessed from 0945 to 1200.

The Chair (Mr. Michael Prue): Meeting resumed. We have, I understand, now three motions as opposed to the two that we left here with. There's three.

Mr. Jeff Leal: That's correct.

The Chair (Mr. Michael Prue): All right. Just to make sure everybody has the correct motions, they are

labelled 0.1R, 1.1 and 1.2, so just to make sure everybody has those three. I understand, Mr. Leal, you will be moving all three?

Mr. Jeff Leal: I will be.

The Chair (Mr. Michael Prue): The floor is yours.

Mr. Jeff Leal: I move that subsection 3(2) of the bill be amended by striking out “and 196(1)” and substituting “and 196(2)” in the portion before clause (a).

This motion corrects an error in cross-reference. Subsection 196(2) of the Insurance Act provides that certain insurance contracts are exempt from seizure. This amendment will override that exemption in connection with the enforcement of family law orders. So that corrects that deficiency.

The Chair (Mr. Michael Prue): Any discussion?

Mr. Gerry Martiniuk: I would ask for a 20-minute adjournment to confer with my colleague before the vote—and that will happen on every vote.

The Chair (Mr. Michael Prue): Okay, but—

Mr. Gerry Martiniuk: I just want to tell them in advance.

The Chair (Mr. Michael Prue): Well, you can say that, and you'll have that opportunity when I put the question.

Mr. Gerry Martiniuk: I was just being courteous to my colleagues across the hall.

The Chair (Mr. Michael Prue): I know, okay. Is there any other discussion? Then I'm going to put the question. So you are asking for a 20-minute recess.

Mr. Gerry Martiniuk: Yes.

Mr. Mike Colle: Is he going to supply lunch when he does this? Is that part of the motion?

The Chair (Mr. Michael Prue): I don't know. But anyway, we have a motion for a 20-minute recess.

Interjection.

The Chair (Mr. Michael Prue): I am advised that it is automatic. So we are now recessed for 20 minutes.

The committee recessed from 1203 to 1223.

The Chair (Mr. Michael Prue): It's 12:23 according to this clock; away we go. I trust everyone has had a good caucus.

We now have a vote. Mr. Leal has moved motion 0.1R. There's no other discussion. All those in favour?

Mr. Paul Miller: Do we get an explanation on it?

The Chair (Mr. Michael Prue): It was had. It is strengthening the ability—

Mr. Paul Miller: Strengthening the ability, okay.

The Chair (Mr. Michael Prue): All those in favour? Opposed? That carries.

Mr. Leal, might I suggest that 0.1 be removed? That was the first, so it will require a motion.

Mr. Jeff Leal: I will move that, Mr. Chair.

The Chair (Mr. Michael Prue): Just withdrawn?

Mr. Jeff Leal: Just withdrawn, yes.

Interjection.

The Chair (Mr. Michael Prue): Shall section 3, as amended, carry?

Mr. Bill Murdoch: What are we doing?

The Chair (Mr. Michael Prue): We've just finished this. This was amending section 3, and now I have to deal with those sections as we finish them before going on to section 4.

The next two deal with section 4.

Mr. Bill Murdoch: We've done section 4.

The Chair (Mr. Michael Prue): It's just that it's going to have to be reopened.

What I'm doing now is, shall section 3, as amended, carry? Carried.

Now we have a new motion.

Mr. Gerry Martiniuk: There hasn't been any time for discussion. There's only been a movement and no recognition for discussion in regard to the motion.

Mr. Paul Miller: Or the changes to it.

The Chair (Mr. Michael Prue): I've been around here only eight years and if somebody would tell me if I'm wrong, but customarily we deal with the sections and then we have to say, “Shall this section carry?” I have never seen one debated, ever, because you either vote for the section or not. The debate over the motion and the debate over the amendments has already taken place. So it's only whether you want to vote for the section or not vote for the section.

Mr. Gerry Martiniuk: Okay. I need 20 minutes to consider that.

Mr. Bill Murdoch: Is it a motion or not?

The Chair (Mr. Michael Prue): I don't believe that's a motion; it's simply just confirming the section.

If you want 20 minutes, you can have 20 minutes for the next one.

Mr. Gerry Martiniuk: No. If it's not a motion, then we shouldn't be voting on it.

The Chair (Mr. Michael Prue): Are you seeking 20 minutes to discuss whether section 3 should carry?

Mr. Gerry Martiniuk: Yes.

The Chair (Mr. Michael Prue): We're recessed for 20 minutes until quarter to the hour.

The committee recessed from 1226 to 1246.

The Chair (Mr. Michael Prue): Twenty minutes is now over. I trust the consultation went successfully.

We now have a motion before us. Shall section 3, as amended, carry? All those in favour? Opposed? That carries.

Mr. Leal, I believe you have another amendment.

Mr. Jeff Leal: Thank you very much, Mr. Chair. I know this will be a difficult request. I would move that we unanimously withdraw section 4 so that a—

The Clerk of the Committee (Mr. Trevor Day): Unanimous consent.

The Chair (Mr. Michael Prue): Unanimous consent—

Mr. Jeff Leal: Oh, I need unanimous consent to withdraw section 4?

The Chair (Mr. Michael Prue): —so that it can be reopened.

Mr. Jeff Leal: So it can be reopened with a new amendment?

The Chair (Mr. Michael Prue): To be clear on the record, Mr. Leal is seeking unanimous consent to reopen section 4, which we dealt with earlier.

Mr. Gerry Martiniuk: No.

The Chair (Mr. Michael Prue): I have a no. Mr. Leal, you have further amendments.

Mr. Jeff Leal: Since I don't have unanimous consent, Mr. Chair, I have a new motion that's just being walked in right now.

The Chair (Mr. Michael Prue): All right.

Mr. Jeff Leal: It deals, Mr. Chair, with issues raised this morning. I have provided some commentary with the intent for all members of the committee.

I move that the bill be amended by adding the following section:

"Status of payments

"4.1(1) Subsections 7(2), (3), (4) and (5) of the Wages Act apply with respect to payments out of a registered plan as if the payments were wages.

"Exception, Insurance Act

"(2) Subsection 4(1) does not apply with respect to payments out of registered plans to which the Insurance Act applies."

The Chair (Mr. Michael Prue): And by way of explanation?

Ms. Laura Hopkins: My penmanship isn't what we might wish.

The first subsection reads, "Subsections 7(2), (3), (4)"—

The Chair (Mr. Michael Prue): Yes. I believe that's what was said.

Mr. Jeff Leal: That's what I said.

Ms. Laura Hopkins: Okay. My mistake.

The Chair (Mr. Michael Prue): And by way of explanation?

Mr. Jeff Leal: Mr. Chair, I'd be pleased to provide it.

This amended section deals with payments out of registered plans governed by the bill. The effect of this section is that payments on registered plans can be seized to pay debts. The amendment maintains the current state of law of payments out of registered plans that are governed by the Insurance Act. Currently, payments out of these plans cannot be seized to pay debts.

The second part of the motion: The Wages Act specifies that a certain percentage of a person's wages are exempt from seizure. The percentage in most cases is 80%. However, if the wages are being garnished to pay support or maintenance, the percentage is reduced to 50%. Courts can change these percentages in particular cases.

So that sums up the intent of the new section.

The Chair (Mr. Michael Prue): Is there any discussion? Mr. Miller.

Mr. Paul Miller: It's sending me conflicting messages here. Subsection 4(4), I believe, you changed, which I like.

The Wages Act specifies that a certain percentage of a person's wages are exempt from seizure. The percentage in most cases is 80%. However, in the case of support

payments, it goes to 50%. That's what I like, but I'm a little concerned about the exception in the Insurance Act. That's exactly what I was talking about earlier, and you're exempting them again by saying that subsection 4(1) does not apply with respect to payments under the registered plans to which the Insurance Act applies. So I'm afraid that you have countered it with a negative. I don't know what somebody's doing here, but your subsection 4.1(2) is countering 4(4). So I think you're going to want to remove exception to the Insurance Act completely because we're just spinning our wheels here. This is contradictory. Correct me if I'm wrong.

The Chair (Mr. Michael Prue): Mr. Leal.

Mr. Jeff Leal: I'd like to ask legislative counsel.

Ms. Laura Hopkins: The first subsection of the motion protects a certain portion of the payments out of a registered plan from garnishment in the same way that wages are protected. The second amendment preserves the current status of payments out of plans that are governed by the Insurance Act, and those plans are fully protected.

Mr. Paul Miller: I beg to differ. You're saying in this section that there's no change to the present insurance plans. But right now people—mothers—who require support payments have trouble getting money out of insurance plans. You're doing exactly what I didn't want here, and you're correcting it with 4(4), which I'm happy with, but 4.1(2) countermands 4(4), so it's double talk. Either you eliminate 4.1(2) and go with 4(4), which I won't have a problem with—but you're just doing exactly what they want. This is not what we're looking for here. Am I wrong?

Mr. Jeff Leal: I'd be prepared to withdraw the section that deals with the Insurance Act and stay with the section dealing with the Wages Act.

Mr. Paul Miller: So 4(4) would remain. So "Exception, Insurance Act," subsection 4.1(2) would be removed?

Mr. Jeff Leal: Exactly.

The Chair (Mr. Michael Prue): Are you withdrawing that section?

Mr. Jeff Leal: I am, Mr. Chair.

The Clerk pro tem (Mr. Trevor Day): So it's being amended by removing subsection (2).

The Chair (Mr. Michael Prue): Yes. Usually you withdraw a whole section. Can you withdraw parts?

Interjection.

The Chair (Mr. Michael Prue): He's amending it by withdrawing subsection (2).

Mr. Bas Balkissoon: We're just removing the exception.

Mr. Jeff Leal: That's correct, Mr. Chair.

The Chair (Mr. Michael Prue): Any further discussion? Seeing no further discussion—

Mr. Gerry Martiniuk: I would like a 20-minute recess prior to the vote in regard to this matter, Mr. Chairman. I should explain that both my colleague and myself commend Mr. Leal for bringing this forth. We

agree with the merits of it, but because of the McGuinty government's refusal to commit to province-wide public hearings on the single largest sales tax grab in Ontario history, we are taking these delays as we are entitled to. I therefore ask for a 20-minute recess in regard to this vote.

The Chair (Mr. Michael Prue): Okay, the 20-minute recess is automatic. Given the time—it now being eight minutes before the hour—and given the instructions from the Legislature that we have only until 1 o'clock today to deal with this matter, we'll adjourn today and we will return on our next date, which will be for Bill 106, on Wednesday, November 25, 2009.

Just for clarification, Bill 106 is An Act to provide for safer communities and neighbourhoods, put forward by Mr. Naqvi. That's the bill. So we will not be coming back to this bill on the next occasion unless there is a subsequent subcommittee or whatever is done in order to get it back on track.

Mr. Paul Miller: Mr. Chair, would it be possible—Mr. Leal did some pretty good work there. Could we possibly have a copy of his new suggestion with the removal of subsection (2)—

Mr. Jeff Leal: We'll get it to you.

Mr. Paul Miller: —so that I can have a document to refer to when we once again meet on this bill.

The Chair (Mr. Michael Prue): I'm sure that Mr. Leal will provide the necessary copies when and if this—

Mr. Jeff Leal: As quickly as we can, and we'll certainly provide Mr. Martiniuk and Mr. Murdoch with similar information.

The Chair (Mr. Michael Prue): I'm sure this will be done through the clerks' department, but the question remains, when and if it is heard again, as it may not be.

That being the business for today, the meeting is adjourned.

The committee adjourned at 1255.

CONTENTS

Wednesday 18 November 2009

Subcommittee report.....	T-85
Registered Retirement Savings Protection Act, 2009, Bill 96, Mr. Leal /	
Loi de 2009 sur la protection des régimes enregistrés d'épargne	
en vue de la retraite, projet de loi 96, M. Leal.....	T-86
Canadian Life and Health Insurance Association	T-86
Mr. Frank Zinatelli; Mr. David McKee	

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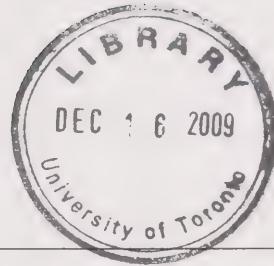
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T-17



T-17

ISSN 1180-4319

Legislative Assembly of Ontario

First Session, 39th Parliament

Official Report of Debates (Hansard)

Wednesday 25 November 2009

Standing Committee on
Regulations and Private Bills

Safer Communities
and Neighbourhoods Act, 2009

Assemblée législative de l'Ontario

Première session, 39^e législature

Journal des débats (Hansard)

Mercredi 25 novembre 2009

Comité permanent des
règlements et des projets
de loi d'intérêt privé

Loi de 2009 sur la sécurité accrue
des collectivités et des quartiers

Chair: Michael Prue
Clerk pro tem: Trevor Day

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Telephone 416-325-7400; fax 416-325-7430
Published by the Legislative Assembly of Ontario



Service du Journal des débats et d'interprétation
Salle 500, aile ouest, Édifice du Parlement
111, rue Wellesley ouest, Queen's Park
Toronto ON M7A 1A2
Téléphone, 416-325-7400; télécopieur, 416-325-7430
Publié par l'Assemblée législative de l'Ontario

LEGISLATIVE ASSEMBLY OF ONTARIO

**STANDING COMMITTEE
ON REGULATIONS
AND PRIVATE BILLS**

Wednesday 25 November 2009

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

**COMITÉ PERMANENT DES
RÈGLEMENTS ET DES PROJETS DE LOI
D'INTÉRÊT PRIVÉ**

Mercredi 25 novembre 2009

The committee met at 0900 in room 151.

**SAFER COMMUNITIES
AND NEIGHBOURHOODS ACT, 2009**

**LOI DE 2009 SUR LA SÉCURITÉ ACCRUE
DES COLLECTIVITÉS ET DES QUARTIERS**

Consideration of Bill 106, An Act to provide for safer communities and neighbourhoods / Projet de loi 106, Loi visant à accroître la sécurité des collectivités et des quartiers.

The Chair (Mr. Michael Prue): All right. I see the Sergeant-at-Arms marching in the mace, which means it's 9 o'clock. The meeting is called to order. We are here today for Bill 106, An Act to provide for safer communities and neighbourhoods. We have a number of listed deputants.

Just to set the ground rules before you start, each deputant will have 10 minutes. If there is time left over at the end of the presentation, we will allow questions from the members of the committee. If there is not, we will simply proceed to the next deputant.

**CENTRE FOR ADDICTION
AND MENTAL HEALTH**

The Chair (Mr. Michael Prue): The first deputant is the Centre for Addiction and Mental Health, and the deputant we have listed is Barney Savage, director of public policy.

Interjection: You sound bad.

The Chair (Mr. Michael Prue): I do?

Interjection.

Mr. Michael Prue: Okay, it sounds bad. He says that it sounds like I'm singing. If you heard me singing, you'd know that's not the case.

Mr. Savage, the floor is yours.

Mr. Barney Savage: My intention is to give this presentation in spoken word rather than song. I hope that's acceptable to you.

Thank you very much for the opportunity to present this morning on Bill 106, An Act to provide for safer communities and neighbourhoods. My name is Barney Savage, and I am the director of public policy at CAMH, the Centre for Addiction and Mental Health. CAMH is a

teaching hospital with clinical and research facilities in Toronto and 26 satellite offices across the province. I have provided the committee clerk with our written submission and with the requisite number of copies for the committee and staff.

CAMH has concerns about this legislation. I did want to let the committee know that we've contacted the office of Yasir Naqvi to convey those concerns and provided his office—your office—with a copy of our submission today.

We, at CAMH, recognize that illegal activity, and particularly the unlawful and inappropriate use of alcohol and drugs, is an enormous social problem in Ontario and in Canada. The use of illicit drugs costs Canadians \$2.7 billion each year in costs related to health care, enforcement and lost productivity. Every day, our clinicians see the impact of substance use disorders on our clients, their families and communities, and it is a problem we take very seriously. Facilitating a community response to illegal and disruptive activity is commendable.

We believe that the fundamental question you must determine when you consider this legislation is this: Can the primary objectives of this legislation be achieved without risking unintended consequences that might make the impact of this legislation more far-reaching than anticipated? Furthermore, do these potential unintended consequences require more careful deliberation and consultation? I'd like to take just a moment to explore some of those potential unintended consequences.

CAMH is concerned that SCAN could be used as a platform for discrimination against people with mental health problems, substance use disorders and a significant number of people who live with co-occurring disorders—that is, a mental illness and an addiction.

When we create a process such as SCAN, which is a legal process initiated by reports of illegal behaviour, we must recognize that such judgments might well be tainted by the documented stigma and discrimination that is the experience of many people who live with mental health and addiction problems. There are people with mental illness and addictions who could speak from their own experience about the presence of stigma and discrimination in our society. It is real.

There is often community opposition to housing initiatives for people with mental health problems. Routinely in Canada, there is community opposition to a methadone

clinic, opposition that would be unimaginable in the case of a clinic providing treatment for other health conditions.

Because of this stigma and discrimination, it is critically important that the fundamental legal rights are scrupulously applied to those in our society with the least financial resources and with the weakest access to power.

Bill 106 establishes a legal process without some of the key safeguards that exist within our judicial system, certainly within our criminal law, and these safeguards are intended to ensure fairness and due process. The SCAN director, for example, is not required to provide any reasons or even an evidentiary base for his or her decisions. None of the witnesses who provide information during an investigation is named or compelled to give evidence at court or subject to cross-examination. We are concerned that the omission of these fundamental legal protections might compromise the legislation, and our understanding is that a legal case in the Yukon involving similar legislation was stalled because the courts were concerned about the use of a single, anonymous individual.

Finally, it should be noted that Bill 106 is not a good fit with the government's policy directions or at least some of the government's policy directions in the area of addictions and mental health. For example, the government has committed to building supportive housing units for people with substance use problems, an initiative that we strongly support. The Ministry of Health and Long-Term Care has embraced a Housing First model, which is used in many jurisdictions. It's an approach that permits people to be housed without preconditions of abstinence or entry into treatment. The theory of Housing First models is that sometimes it is best to start with stable, decent housing and then address other social and health problems. One can easily imagine the government's own housing initiative in this area being threatened and potentially derailed by this legislation.

In summary, we commend the desire to facilitate a community-based response to substance use problems and to the social disruption that can accompany them. Our concern is that the legislation may be used in ways that this committee or the Legislature may not have considered, given the history of discrimination against those who live with mental health and addiction problems. If this committee chooses to endorse the SCAN legislation, it might consider making amendments to the legislation that might minimize potential unintended consequences, and that might provide better protection against discrimination. I can tell you that the Centre for Addiction and Mental Health would be very pleased to explore those options in greater detail.

The Chair (Mr. Michael Prue): You've left four minutes, so that's about a minute and 20 seconds per caucus. We'll start with the official opposition. No questions? The third party?

Ms. Cheri DiNovo: Thank you very much, and thank you also for all you do. We in the New Democratic Party couldn't agree more: Everyone deserves a home, and in

fact we believe that this flies in the face of section 7 of the Charter of Rights and Freedoms. It's egregious legislation. We're going to vote against it and work against it in any way we conceivably can. I don't think it's amendable. I think it's just wrong-headed. So thank you very much, and we'll do everything we can to defend the rights of those who have mental health or addiction disorders and their right to housing—end of story.

The Chair (Mr. Michael Prue): The Liberal Party, Mr. Naqvi.

Mr. Yasir Naqvi: Thank you, Mr. Savage, for your presentation today. I sincerely appreciate the comments you've made and the conversations our offices have had in the past on this very important issue. Would you not agree with me that when we talk about stigma and dogma towards people with mental health issues, one of the biggest challenges they face is criminals, people who engage in illicit trades, targeting those with mental health problems and trying to make them prey for their illegal trades?

Mr. Barney Savage: If I had to give you a short answer to that question, it would be yes. But let me just say this: I think one thing we've learned with regard to the federal government's approach on mandatory minimum sentencing for drug offences, for example, is that our desire to simplify the drug issue by dividing those who are involved in drugs and giving each of them a label of either "victim" or "victimizer" doesn't fully embrace the nuance of substance use and the law. That is to say, we can't neatly divide between those who are victims of drug pushers and those who profit from it. Do you understand what I'm saying? I'm not saying that that division doesn't exist; I'm just saying that there's a lot more nuance to that, in that many of the people who become drug sellers are themselves people with a substance use disorder. I can get you statistics on that about the percentage of people who move from having a substance use problem to becoming a small-time pusher to support their habit.

0910

That's simply to say that yes, there's no question that there is victimization taking place, but it's a complex picture.

Mr. Yasir Naqvi: No, absolutely—

The Chair (Mr. Michael Prue): No, no. The time is well past.

Mr. Yasir Naqvi: The time's up. Thank you, Chair.

The Chair (Mr. Michael Prue): Thank you very much.

ADVOCACY CENTRE
FOR TENANTS ONTARIO
HOUSING HELP

The Chair (Mr. Michael Prue): The next deputant is the Advocacy Centre for Tenants Ontario. I have listed here Kenn Hale and Trudy Sutton. I take it, then, that you would be Mr. Hale?

Mr. Kenn Hale: That's correct. Thank you, Mr. Chair. Ms. Sutton was supposed to be flying in from

Ottawa this morning, but she wasn't able to do so. So I'm presenting a few remarks that she has provided me from the perspective of her organization, the Ottawa Housing Help centre, as well as the views of the Advocacy Centre for Tenants Ontario, where I work.

I would ask the committee members to first have a quick look at the groups in the list attached to our depuration of groups that have concerns on and are critical of Bill 106, and the numerous community legal clinics which have spoken out against this legislation, a number of which come from the Ottawa area.

The Advocacy Centre for Tenants Ontario, or ACTO, is a community legal clinic. We have a province-wide mandate to protect residential tenants, particularly low-income residential tenants, because we're funded by Legal Aid Ontario. We work closely with all the community clinics and other service providers across the province. We go to court and to tribunals on test cases. We do public legal education and we speak to government at various levels on issues that affect tenants, particularly low-income tenants. We manage the tenant duty counsel, where we see hundreds of tenants every week, and see the problems that they face in their housing directly. Based on our experience in this work and the broad consultation that we've had with a number of groups since this bill was first discussed, we're asking you to not support the bill.

In June 1998, the Ontario Superior Court stopped hearing residential landlord and tenant cases, and the government of Ontario set up an administrative tribunal and appointed people by order in council to hear these cases. For over 10 years now, community legal clinics and tenant groups have been trying to make that system work and make that tribunal work. We were very supportive when the Liberal government came forward with amendments to change the then-called Tenant Protection Act, and recently we've been working with Ministry of Municipal Affairs and Housing and the co-op housing movement to move their dispute resolution system out of the courts and into the Landlord and Tenant Board, where we think the system, with some more work, could be made more fair and really work for tenants.

Bill 106 seems to want to turn the clock back and move certain kinds of residential tenancy cases to the Superior Court. Landlords, tenants and housing co-ops have all agreed that the Superior Court doesn't really work for the kinds of complex social issues that are raised by eviction cases. Bill 106 would not only move it into an inaccessible forum, but it deals with the cases in a way that's fundamentally unfair to the tenants involved.

Despite some of the rhetoric around the bill, buildings aren't targeted; the people who live in the buildings are targeted, and those people would be displaced under this legislation. In most cases, those people would be tenants. But tenants aren't parties to the application. There's no provision for them to actually see the evidence that goes before the court or to really participate in the hearing in a full manner. To make matters worse, speaking as a legal service provider, it would be almost impossible to ensure

that low-income tenants who are involved in this process got legal assistance to allow them to fully participate.

We think that the bill authorizes gross intrusions into people's privacy by allowing information to be collected about them and disseminated, with very little accountability. Apart from the concerns of my colleague from CAMH as to the possible human rights impact on people with mental health problems, we think that members of racialized communities and recent immigrants are likely to be the subject of these complaints far out of proportion to their actual impact on community safety, due to pre-existing prejudices in the community and some lack of understanding among certain elements of our community.

We don't think that you should be giving new tools to people who want to exclude certain kinds of people from their community so they could harass social housing providers and harass vulnerable households. We really don't think that there's a need for this fundamentally unfair law.

The Residential Tenancies Act already provides for speedy evictions for tenants who commit illegal acts. There's a notice period of 20 days. That notice period can be shortened to 10 days when there's illegal drug activity involved. The fact that the person concerned hasn't been convicted of any offence is irrelevant to the Landlord and Tenant Board's consideration. The landlord can apply for the eviction as soon as the notice has been served, and in some cases, these hearings and evictions are expedited. It isn't just illegal activity that the Residential Tenancies Act deals with; it's also any activity that adversely affects the community or interferes with the reasonable enjoyment of the premises.

Even though these provisions, in my view, are often harsh and have harsh consequences for people, particularly those who aren't the actual perpetrators but share the household, there is a recognized process by which these cases are heard. There's a balancing of interests, there are opportunities for people to obtain legal advice and there's access to social services and other supports that can address the roots of the problem.

We have the sheriff's office, which is also known as the Court Enforcement Office, which is a branch of the Ministry of the Attorney General, which has a long history of taking possession of properties in complex and difficult situations as opposed to the somewhat nebulous provisions that Bill 106 would have for enforcing these court orders.

Beyond residential tenancy law, we also have the Civil Remedies Act. Under that legislation—it hasn't been around for that long and it has been the subject of some court challenges—where landlords are conspiring with criminals to use residential premises to carry on illegal activity, the Attorney General can apply for a broad range of remedies to protect the public. In our submission, those powers are wide enough to provide remedies for any legitimate concerns that Bill 106 claims to address. Maybe more importantly, the powers are backed by the resources and the accountability mechanisms of the government of Ontario and aren't depend-

ent on a patchwork of municipalities adopting them or not adopting them.

We have the criminal law and we have a myriad of laws that give authority to the police and to the courts to deal with threats to our safety in our neighbourhoods and our communities. The government of Ontario and our municipalities invest billions of dollars every year in enforcement, police services and related services. The result of that investment and the commitment of Ontarians to the rule of law means that Ontario is one of the safest places in the world to live. There is no immediate emergency that would require the kind of legislation contemplated by Bill 106. The police can arrest people and take them out of the community; the courts can make release orders that prevent people from going back to their homes while they're awaiting their trials. We don't need some kind of parallel process to make these things happen in our community.

I would like to turn to the remarks from my colleague in Ottawa from Housing Help. I'm sure you're aware of the important roles that housing help centres play across Ontario in preventing homelessness and helping people maintain their housing.

0920

Last February in Ottawa they held an information session for local community agencies about the SCAN legislation, and 65 agencies came there. After extensive discussion of the concept, they felt that they couldn't support it because they thought it was going to lead to an increase in homelessness. It's evicting some people who are innocent, some people who are guilty, shutting down affordable housing units in the middle of a housing crisis. Simply for that reason they didn't think it should be supported.

But they also believe that it shouldn't be supported, because there are alternatives. She points out that last month a group of agencies, homeowners, police service personnel and bylaw officials met with their city councillor to talk about one of these problem properties. They worked together to develop a plan of action and they're bringing ideas forward to city council, including attaching conditions to rooming house licences, getting injunctions against the landlord, expropriating properties in extreme cases, and greater accountability to the landlord through the social service agencies that—

The Chair (Mr. Michael Prue): If I could, it's been 10 minutes; if you could just wrap up.

Mr. Kenn Hale: Okay. Ottawa has a well-deserved reputation for working collaboratively with groups who have different approaches and different interests and to work to prevent homelessness. They feel that this legislation has polarized the Ottawa community into people who support it and people who don't support it, pitting homeowners against tenants. The quick-fix solution that this bill appears to offer is really just going to shove the problem into some other part of the community and not really get to the root causes of the problem. For those reasons, we ask this committee to vote this bill down and get down to work on homelessness and poverty reduction through the other mechanisms that are available to them.

The Chair (Mr. Michael Prue): Thank you very much. There's no time left for questions.

JOHN HOWARD SOCIETY OF TORONTO

The Chair (Mr. Michael Prue): The next deputants are from the John Howard Society of Ontario. I have listed here Greg Rogers and Else Marie Knudsen. As per the rules, you have 10 minutes to speak, after which, if there's any time left, there will be questions. The floor is yours.

Ms. Else Marie Knudsen: Good morning. Thank you for the opportunity to present to you today. I represent the John Howard Society of Ontario and will be sharing my time with Greg Rogers, the executive director of the John Howard Society of Toronto.

As you may know, the 18 John Howard Society branches across the province provide services to people who are involved with the criminal justice system or who are at risk of involvement with the system.

Our services range from crime prevention for high-risk youth through to reintegration services for those who are leaving prisons. We provide addiction, mental health and housing services, among others, and we've been active for 80 years.

We have significant experience and expertise with the criminal justice system in Ontario and we know what works when it comes to crime prevention. We strongly feel that the proposed Safer Communities and Neighbourhoods Act will fail as a crime prevention strategy, that it will have a negative impact on Ontario tenants and on social housing providers, which we are, in several Ontario communities. You'll find our concerns outlined in more detail on the handout we've provided.

But to summarize, we have concerns firstly about the act as a crime prevention strategy. The potential for the act to make Ontario communities safer is extremely limited, as it is inconsistent with what the research tells us works to prevent crime. Simply forcing people out of their homes or threatening eviction will not stop criminal behaviour. Indeed, strategies based on tough-on-crime punitivism or general deterrence simply don't work. What does work to prevent crime is strategies that address the root causes of crime and social development strategies. Addiction services and mental health support are much more likely to reduce the types of behaviour that this act was intended to target. As well, any program that actually creates homelessness cannot be a successful community safety initiative. Stable and decent housing is one of the most important protective factors that can reduce criminal behaviour. Most importantly, the SCAN process will only displace problematic or criminal behaviour. By not addressing the causes of the behaviour, this approach will simply move crime—drug dealing, for example—to another building, another neighbourhood, another community.

Secondly, we would argue that the tools required to fight crime and disorder in our communities already exist. The Criminal Code, the Residential Tenancies Act,

the Landlord and Tenant Board and others already allow for illegal and offensive behaviour to be efficiently addressed. The act would simply add a layer of unnecessary bureaucracy by duplicating the work of police and other bodies, and this duplication comes at a cost. We've seen figures which estimate that Ontario could spend \$8 million in implementing the act, and we think those dollars could be better spent elsewhere, starting with meaningful, evidence-based crime prevention strategies which address the root causes of crime.

Thirdly, the act threatens the rights of Ontario tenants, as has been discussed. By allowing anonymous complaints, the rights of tenants to a fair hearing may be undermined. The lack of right to appeal or guarantee of legal assistance may further undermine the right to due process, and it seems profoundly unjust and unfair that an entire family within a rental unit, or indeed all of the tenants of a social housing building, could be evicted as a result of the criminal or offensive behaviour of just one tenant.

Greg Rogers will speak to the issue that John Howard societies could face under the act as social housing providers.

Mr. Greg Rogers: Good morning. I'd especially like to thank Mr. Ruprecht for the note that he gave me for my garden this year.

John Howard Toronto operates two transitional housing buildings in partnership with the Toronto drug court. In addition, we house over 150 men per year into permanent accommodation as they leave prison. The city of Toronto reports that our retention rate is 83%.

There is a proven link between incarceration and homelessness. Substantial research shows that safe, affordable housing greatly reduces the chances that an individual will reoffend. Every time a person reoffends, it costs the taxpayer money through policing, emergency services, the court system and, of course, incarceration.

If Bill 106 is enacted, it will have a vastly negative effect on our clients, which will result in increased crime, recidivism and cost. One's ability to access and maintain housing is directly connected to their capacity to successfully integrate into communities and live a crime-free life. Bill 106 may do nothing more than move offending activities from one community to the next or drive anti-social behaviours underground, impacting the goal of building safer communities.

Many of our clients can only afford to live in shared units. They often struggle with life skills and social issues. Bill 106 will result in our clients facing additional stigma and discrimination by those who simply do not like them, and increase the risk of NIMBYism, since the director accepts anonymous complaints.

Social housing providers like John Howard that work with marginalized populations already have eviction prevention procedures such as tenant-landlord or tenant-tenant conflict resolutions built into our programs, but this bill would take the eviction prevention work out of our hands, and someone completely out of our circle would be able to make a complaint to SCAN and have

our client pushed out of the community. Especially because our clients are ex-prisoners, the risk that SCAN will target them is massive. This, of course, will lead to further marginalization of our clients, an increase in recidivism and increased cost to the taxpayer.

With all that we have learned about the proven success of housing programs based on Housing First models, engaging in certain behaviours like substance use should not be an automatic sentence to homelessness. Instead, substance users who are in stable housing have a better chance of getting the help they need and achieving stability, and that makes all of us safer.

Some particular concerns are that evidence can include anonymous affidavits and criminal records. In this case our clients would be in big trouble. Many of the people we work with would be at an unfair disadvantage in this process. The fast eviction procedure, with no protections, will result in our clients becoming homeless, and if our clients end up back on the street, it's very likely that they end up back in jail. Complaints could result in parole breach and arrest, thus increasing recidivism.

SCAN will cost millions of dollars, as it has in other jurisdictions. At a time of financial stress, limited funds would be better spent on supportive housing, addictions treatment and social problems, the real factors that would increase community safety in all of our neighbourhoods. Thank you very much for your time.

The Chair (Mr. Michael Prue): That leaves exactly three minutes—one minute per caucus, starting with Ms. DiNovo.

Ms. Cheri DiNovo: Thank you very much for your deputation. I couldn't agree more. We in the NDP are voting against this bill. We think it's egregious. Homelessness isn't the answer to criminal activity or addiction issues or mental health issues. In fact, in other jurisdictions the crime rate does not go down when SCAN is introduced. We have jurisdictional proof that it doesn't work and it costs more money to municipalities.

So thank you for all the good work that you do.

0930

The Chair (Mr. Michael Prue): The Liberals—anyone? Mr. Naqvi.

Mr. Yasir Naqvi: Thank you very much for your presentation. I agree with you that we need to make sure there is always affordable housing available for our communities, and this legislation by no means wants to take away from that. In fact, it's just one tool, especially when we're dealing with drug problems, in addition to harm reduction programs, prevention and treatment. This is the enforcement element of it, so that the vulnerable are not being hurt.

A quick question: Have you had the chance to look at the experiences in other provinces, such as Manitoba and Saskatchewan, where this legislation has been active since 2001 and how effective this has been?

Ms. Else Marie Knudsen: I'm sorry. I can't speak to any experiences outside of the province, unfortunately.

Mr. Yasir Naqvi: Okay. I just want to highlight that there have been very positive experiences there, and the

kinds of concerns you have raised have not been a concern—

Ms. Cheri DiNovo: Excuse me, Mr. Chair. I would challenge that, factually.

The Chair (Mr. Michael Prue): You don't have the floor.

Mr. Yasir Naqvi: My time's up. Thank you, Chair.

The Chair (Mr. Michael Prue): In any event, the time is up.

Mr. Bill Murdoch: Can we remit our time to those two, because I think Yasir needs more time to explain this. I mean, we've got a lot of negative people here today. We're glad you're here, but if he needs a few more seconds to explain it—

The Chair (Mr. Michael Prue): Are you ceding your time to him?

Mr. Bill Murdoch: Yes.

The Chair (Mr. Michael Prue): You have about 30 seconds.

Mr. Yasir Naqvi: Okay. I just also want to—you raised an issue about whole buildings getting emptied because of this. I'm sure you've looked at section 12 of this particular bill, which makes it very clear that a court can limit a court safety order to a particular individual or part of a building as well, to ensure that that safeguard is embedded in the legislation.

Ms. Else Marie Knudsen: Certainly. I think the concern, as social housing providers in Ontario, is that the potential does exist for an entire building to close—

Mr. Yasir Naqvi: Thank you.

Mr. Tony Ruprecht: On a point of order, Mr. Chair.

Ms. Else Marie Knudsen: —which would have significant financial burden for us.

The Chair (Mr. Michael Prue): Thank you very much. On a point of order.

Mr. Tony Ruprecht: Mr. Chair, I would like to thank Mr. Rogers for keeping our community beautiful, safe and clean.

The Chair (Mr. Michael Prue): I'm not sure it's a point of order, but you snuck it in.

Interjection: Proud to do it.

The Chair (Mr. Michael Prue): Okay.

HINTONBURG COMMUNITY ASSOCIATION

The Chair (Mr. Michael Prue): The next deputant is the Hintonburg Community Association. I have here listed Charles Matthews and Cheryl Parrott. You have 10 minutes. Any time that is left over, you've seen how that works. Please proceed.

Ms. Cheryl Parrott: Thank you. On behalf of the residents in Hintonburg and in Ottawa, and on behalf of many other groups in Ottawa and individuals, I urge you to support this legislation.

"Living next to a drug house is no fun." That's what several 90-year-old seniors have said to me, and it's voiced by many others in the community in usually much stronger language than that. But neighbours of all ages

live in fear of these crack houses and booze cans, which are usually very blatant and out of control. They fear for their own safety but also the safety of those most vulnerable—children, the elderly, the disabled. Many low-income people in our community have told me they feel so trapped. They can't afford to move. They are stuck there.

The current legislation and mechanisms, albeit slow, often work for properties with a first occurrence or more minor issues. With the housing tribunal, you have to have a tenant in the same building; you must have the courage to be a witness at a hearing. With SCAN, you would have an investigative unit that could bring forth evidence. But the process now is that you have to have that neighbour tenant who's willing to come forward. Many neighbours are not willing to do that when you have a crack house. Neighbours in nearby buildings have no rights in front of the tribunal.

Police do respond to complaints. They do undercover work. They lay charges. But it's a very long, slow process. They have to make three undercover buys before charges can be laid, and then it takes two to five years to get to court. We have one now that's over five years that has still not come to court. And the problems don't stop just because charges are laid. New tenants move in and the activity continues. We've seen this time and again. The faces change, but the problem remains the same. Some properties are raided regularly.

Civil remedies is an extreme measure and a very long process. Sometimes it is the best way and the only way, but it's really very slow. One property in our community is undergoing this process. After 10 years of problems, the police spent six months compiling evidence. The Attorney General looked at it over a period of 10 months, asked for an order to freeze the assets. Ten months later, we're still not at court. Almost 13 years later, the neighbours still do not have relief.

Right now, the community association plays some of the role that we believe SCAN would play, but we have no ability to impose sanctions. We search ownership on problem properties, we contact the owners, and we try to work with them. Responsible owners are great, and they are certainly a joy to work with. They resolve the problem, often at great expense to themselves.

It's the owners of the habitual problem properties who are the problem. One that we have, the tactical unit raided it regularly over a period of many years. I contacted the owner, and he said to me, "There's no point in meeting because this is my business plan, and I make more money off this building than I do in the other buildings that I own"—never mind that the neighbours in the community were terrorized and that the taxpayer, not the owner, had to foot the bill for the tactical unit to be there every three months.

This is why we need SCAN. We need something that works between the housing tribunal and civil remedies; we have nothing to fill that gap. We brought a letter of support from our NDP MP, Paul Dewar, MP for Ottawa Centre. The community in Ottawa largely supports SCAN, and we ask you to support SCAN.

Mr. Charles Matthews: Thank you very much. Charles Matthews from Access Now.

Before you, you have copies of our current paper. The new new paper will be coming out Sunday, so I hope you all will be getting a copy of that starting Monday. You also have a copy of our January/February issue where basically we covered the SCAN legislation and gave everybody an overview of what was coming.

Over the course of the whole last year, we heard from many, many places, including a lot of our members. We represent a lot of people with disabilities. We are people with disabilities working for people with disabilities by people with disabilities. What you'll find is that a majority of our population is very scared to say anything about anything because they don't want to lose what they are getting now. What they'll do is come to an organization such as ours, and then we voice their opinions. What we also do is make people realize that 90% of the disabled population is not represented by the groups that you're hearing in opposition to this legislation. The opposition to this legislation is mainly by groups representing people who are committing the crimes, committing the problems and making things very difficult for the majority, 90%, of people with disabilities.

I also live in Ottawa community housing. In Ottawa community housing, in our building alone, a majority of our people are scared of the one or two places that we're having problems with. This is where SCAN will come in. SCAN will help the 90% of our population that is affected by the less than 10% of the problem areas.

Again, this legislation is also representing the evil things that are going on, not the people who live there. As an example, we have many people with disabilities who have had problems, have been in jail and so on and so forth. They are striving to live decent, normal lives. But when we have one place in our building, as an example, that's committing so many problems, and nothing can be done without legislation like SCAN, then very basically it's affecting all the other people in the building, the 90% of us who need to live and expect to live in decent, law-abiding communities. This is why we need SCAN and we ask you to please support this legislation. Thank you.

The Chair (Mr. Michael Prue): We have about—I'll do my calculation here fast—four minutes, starting with the government. Mr. Ruprecht.

Mr. Tony Ruprecht: Thank you for your presentation. Mr. Matthews and Ms. Parrott, you've come this morning to give us your presentation, and we thank you for it. But you've also, probably for the first time, heard some of the other presenters. I'm just wondering, having heard some of the presenters—and there are more to follow here—have you changed your mind in any way whatsoever? Have you come to a different conclusion? Have you looked at this in a different light?

0940

Mr. Charles Matthews: Actually, over the last year—as you've noticed, the paper is from last January—we have heard from a lot of these organizations, and each

time they're representing, as I stated before, a small percentage of the people with disabilities that are actually having the problems. So we have heard it. What we keep on trying to reassure them is that with SCAN, it's not going to affect the person who is maybe an ex-convict or an ex-drug user or so on and so forth. It's going to affect the illegal activity that is going on presently so the other people who will be living in that same community will not be victims.

The Chair (Mr. Michael Prue): Thank you. Mr. Murdoch?

Mr. Bill Murdoch: I would just follow up what Tony said. We had three organizations just before you and they were all adamantly opposed to this legislation. One even gave us a list of the groups, and there are five on there directly from Ottawa; a lot of the other groups represent all of Ontario. That's where it makes me wonder, because these other people are professional and they seem quite concerned about this bill. I can understand your problems, that living beside a crack house would be upsetting. It seems to me maybe we need to tighten our police up or something like that, if they are not doing their jobs. That's a concern I would have.

Ms. Cheryl Parrott: The police do their jobs and they've worked very closely with the communities, certainly in Ottawa. But the process is extremely long. The police are one of the tools, but they are not the only tool. What we've determined over a period of 18 years in our community, looking at these problems and looking across Canada, is that there's a gap in legislation. There's a gap in what will work effectively. We believe SCAN is what works effectively, and we've heard from no one else what else they suggest to fill that gap, because there's a definite gap between the housing tribunal, what the police do, and civil remedies. There's a big gap that needs something, and we believe SCAN is what it is.

The Chair (Mr. Michael Prue): Ms. DiNovo.

Mr. Charles Matthews: Might I add something to that?

The Chair (Mr. Michael Prue): No. It's only a minute; I'm sorry.

Ms. Cheri DiNovo: Might I suggest another tool for the toolbox? In Parkdale-High Park we've rehabilitated 800 different housing units using the problem property task force, which is a combination of the city councillor, housing groups, addiction and mental health groups, and the police, and had great success doing it. I'm sorry for your experiences. I don't believe they speak justly for all of the other groups that deputed.

With all due respect, we in the NDP have the freedom to disagree with one another, unlike sometimes our neighbours across the aisle, who seem to have their votes whipped. So respectfully, I do disagree with Mr. Dewar on this, and I do disagree with the legislation in Manitoba on this as well.

The Chair (Mr. Michael Prue): There's about five seconds.

Ms. Cheryl Parrott: Okay. Yes, certainly we believe this is the legislation. We have a problem property task

force; several communities do. It's a very slow, arduous process. It does work very, very slowly, and with a lot of community gutwork, to tell you the truth. Certainly the police support this legislation, as does city council.

The Chair (Mr. Michael Prue): Thank you so much.

WATERLOO REGION CRIME PREVENTION COUNCIL

The Chair (Mr. Michael Prue): The next listed deputant is the Waterloo Region Crime Prevention Council. I have listed here Chris Sadeler. The floor is yours.

Ms. Christiane Sadeler: Good morning and thank you for the opportunity to present to you regarding Bill 106, also known as the Safer Communities and Neighbourhoods Act.

This is somewhat new territory for me, so please bear with me, but I'm here to speak to you from a community-based perspective.

My name is Christiane Sadeler. I'm the executive director of the Waterloo Region Crime Prevention Council. The council is an advisory committee of the regional municipality of Waterloo and it has been in place since 1984, when it started under the leadership of the then chief, Larry Gravill. The council brings together 39 individuals representing 30 different organizations and 22 sectors. Most members of council hold executive or decision-making positions in our community. The mandate of the council is to build partnerships for the purpose of preventing crime, victimization and fear of crime through methods of public education, research and strategic planning, focused problem-solving and collaboration. Waterloo Region Crime Prevention Council is one of the longest-sustained municipally based crime prevention efforts in Canada. The knowledge and experience of members of council include policing and law enforcement; criminal justice and corrections; education; child welfare; social, health, youth and neighbourhood services; municipal planning; and many other areas that are known to have the capacity to reduce the risks of crime.

We agree that few issues erode public confidence and the quality of life in communities and neighbourhoods as much and as quickly as crime, victimization, fear and public disorder. The council, for many years, has played a vital role in supporting neighbourhoods and services in building safer communities by augmenting the efforts of federal and provincial governments and by complementing law enforcement efforts through citizen-driven approaches.

Neighbourhoods are the places in which the tension between safety and security plays itself out every day, and we have all witnessed the significant social and economic damage that can come from increases in criminal activities, including drug trafficking; lack of social responsibility, such as absentee landlords; and from disorder that contributes to residents no longer feeling safe in their streets and in their homes. We have also seen how strategic mobilization efforts, when supported by

good research and assisted by all orders of government and police, rooted in social development, can reverse this situation effectively, efficiently and long term without the need for additional legislation. Social development in fact can do more, namely, it can prevent crime from occurring in the first place.

To be clear, Waterloo Region Crime Prevention Council was appreciative and enthusiastic when we were approached by our colleagues from Crime Prevention Ottawa and Mr. Naqvi to review SCAN and to provide support for its implementation. However, after several reviews of Bill 106, consultations with diverse community groups, including bylaw staff and police, and after research into the impact of the legislation in other provinces, Waterloo Region Crime Prevention Council does not agree that Bill 106 will add value to the safety and security efforts of neighbourhoods and municipalities in Ontario. In fact, we think it stands to slow down a broader effort across the province to engage municipalities in designing and implementing on-the-ground crime prevention approaches.

In the interest of time—much of our reasoning has already been talked about—I give you three main rationales of why the council arrived at this position: The first is the danger of eroding municipally based crime prevention; the second is viable alternatives that deserve due consideration by the province of Ontario; and then, finally, the inequities inherent in the bill that potentially increase the risks of crime.

First, safe and healthy neighbourhoods depend highly on the involvement of residents in their neighbourhoods, such as in Neighbourhood Watch, municipal planning, recreation and youth engagement or simple neighbourliness. Waterloo region has a long-standing history of engaging neighbourhoods exactly on that basis by decentralizing services to bring them closer to the people and by using restorative justice methods when other approaches fail. Bill 106 stands to tear at the fabric of communities by widening the gaps between people rather than making efforts to connect neighbours with neighbours and neighbours with services and their local government.

Encouraging residents to rely on the law as a mechanism for attending to complex social challenges is troublesome, oversimplifies and reinforces a sense of helplessness already felt by residents who live in neighbourhoods that struggle. As we often hear from our neighbourhood groups, when all is said and done, you get to go home at night. It is thus our responsibility to leave them with tools that they can use when we are not here, and the law is a blunt tool indeed.

Second, over 70% of calls to Waterloo Regional Police are for non-policing and non-criminal matters. A barking dog, a noisy party, youth loitering etc. are not crimes, although they can be an indicator of social challenges or even disorder. In Waterloo region, we have developed a mechanism that can assist police in monitoring these developments as part of their ongoing investigative approaches, and they collaborate with other

partners in developing solutions and never losing sight of prevention. Neighbours support police in enforcing the law when that is called for, and at the same time step up other efforts that can create sustainable long-term change.

0950

In a project based in four priority neighbourhoods in 2000, we were able to bring neighbours together with police and community services for strategic actions that led to significant reductions in all things identified as troublesome by residents in these areas. Issues such as graffiti, vandalism and drug deals that were very public were reduced through comprehensive and integrated actions with existing resources, and in some cases, they disappeared altogether.

This experience led to the creation of a model where police are partners in the process of social change with tools that are way more nimble than the law. Some senior police staff in our community have compared the idea of SCAN to squeezing Jell-O: When you see reductions in one area, they often pop up with double the force in another. To avoid such displacement, we've created the integrated model for crime prevention, which utilizes the capacity of existing services, including police, in an approach where it is clear who leads what and when. Practically, when neighbourhoods are identified as needing priority attention, they receive the support of several services—not one—in a comprehensive and integrated manner.

This policy is effective, inexpensive and leaves the tools for change squarely in the hands of local communities without further government intervention. We have sufficient legal tools to deal with safety concerns in neighbourhoods such as Civil Remedies Act bylaws and, yes, the Criminal Code of Canada. What we lack instead is encouragement and support for residents in neighbourhoods across the province to work with their municipalities on designing local and long-term solutions. We also lack leadership and commitment to support municipalities by stimulating actions that are evidence-based and yet locality-sensitive. A law cannot meet that need and may, in fact, detract from it.

Finally, those persons who have a higher likelihood of being in conflict with the law often share some common social and economic characteristics. This is well documented in research, and we need to pay attention to that evidence. As such, any law that provides the basis for differential treatment of homeowners and tenants further widens the very gap that has been identified as a significant contributor to crime in those places. It also simply flies in the face of justice and fairness.

In closing, we agree that few things are as important as our ability and motivation to ensure that neighbourhoods are healthy and vibrant places. Crime is best prevented home by home, street by street, neighbourhood by neighbourhood. Waterloo Region Crime Prevention Squad thus shares the goals that have led to the proposal of this private member's bill. We are, however, deeply troubled by its potential application, so much so, in fact,

that we do not believe amendments would lead to changes significant enough to address these concerns in any tangible way.

We would strongly encourage you to look at alternative methods for supporting municipalities and neighbourhoods rather than developing a law that may take away resources in already-stretched municipal budgets from other opportunities that can accomplish the very same goal with less, and for a longer term.

At the very least, it seems clear that when two municipally based crime prevention committees can come to such divergent conclusions, this bill needs much more consultation than thus far has been provided. If a provincial law can lead to such a different understanding of the reality and how it would play itself out in municipalities, then in our mind it should not become law, or at the very least it's not ready to become law.

Thank you for your time.

The Chair (Mr. Michael Prue): Thank you. There is less than 30 seconds. I don't even think a question—I can't split that time three ways, so we're just going to go on. Thank you very much for your deputation.

OTTAWA CITY COUNCIL

The Chair (Mr. Michael Prue): The next deputant we have listed is from Ottawa City Council: Christine Leadman, Ottawa city councillor, Kitchissippi ward.

Ms. Christine Leadman: Thank you very much, Mr. Chair and committee members, for affording me this opportunity to bring forward the position of city council on the SCAN legislation.

City council, through the community and protective services committee and onto city council, unanimously support the SCAN legislation. It deals with how our cities cope. We have rising costs related to policing, bylaw services and health and safety, including the fire marshal and health inspectors. These are all the challenges that we face when we address problem properties.

You've heard from my community, in particular, because I'm in an urban centre. I've got a very diverse community, and we see the impacts of this.

When we speak about our provincial legislation and how we see our cities develop and how we want people to move into the urban core, how we want to change that model of urban sprawl, we have to provide an opportunity where families feel safe to come into the core and live. We haven't been able to demonstrate that when we have crack houses and drug dealers on the street. I think that the interpretation of this legislation as attacking those who are helpless or homeless, like prostitutes and so on, is actually ill directed. We are looking at the criminal element here, the drug dealer, the people who have no regard for the community, who are not the users but the perpetrators of it. When we have communities such as ours in the urban core—and this is the area that is affordable still for people to live—they're challenged, and because of their economic stance, it doesn't mean that they're less vulnerable to these situations, or that

they're not as important as other areas. These are the challenges that we face, helping these people get through them.

We have a lot of seniors who live in the downtown core. I sit on the board of Ottawa Community Housing—although I don't speak for it—and we do face a lot of challenges with our tenancy. Some 95% of our tenancy is good. We have great tenants. We have a great community. The 5% that creates the problems within our community are related to drugs and drug dealing. They victimize a tenant or they take over an apartment, and these people feel less able to come forward and speak up. We try to help, but the law doesn't provide us all the options that we can have available to us to address these problems.

When we live in a community as diverse as ours, our children are vulnerable. These are families that are on the economic edge. They can become victims—using kids for drug running in the communities. These are elements that are there; they're real. I hear about studies and I hear about the possibilities, but what we're talking about is what's happening in the communities. This is real. These are the people who are saying, "This is happening."

My community for 20 years has been dealing with trying to take that community out of that element, to move it forward, to make a great place to live, and we're challenged by that. Every year, our police budget goes up. This year, it's a 5.6% increase that they're looking at for their budget. We're looking at increasing our bylaw services to address these issues.

The other element, I think, that's missing here is our ability for intervention as well. This gives us an opportunity to at least get to the people who are being victimized, who are under the influence of drugs, and give them that step up to be able to change that pattern for themselves.

Recently, the Ottawa Mission supported the building in the community, for the very first time, to transition from a program where they've had two years of sobriety from either drugs or alcohol and putting them in a community where they can integrate better with society. If we don't provide them with an environment that is clean of the activities that might encourage them to move forward, we're not doing ourselves a favour. This costs us money, and for people to be accepting of these communities and making them welcome, and spreading them out instead of concentrating them—these are the community people here who support those buildings and who support those tenants, bringing them forward and helping them through those challenges that they're facing, integrating them as part of a community, getting jobs and being accepted. To continue to allow criminal activity in buildings and not giving the tools to address them from a community level—I think that this community has demonstrated its strength in keeping its community safe as much as possible.

I know we were challenged with the crack pipe program in the city of Ottawa, in regard to all in community health services who were upset when the city council

cancelled the program. When I met with them, I said, "Well, there's a reason for it. We accept the idea that this is a health issue for those users, and certainly the program is worthwhile. But at the same time there has to be recognition for the effects of that program and the needle exchange program when they're scattered in the community and in our parks."

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So how can we work together? It can't be, "One element is the right element." The health community groups agreed, after the program was improved and the cleanup was recognized, that it has been solved.

I think that we have to look at two sides of this, and we have the community here who lives this every day. It's not academic, it's not theory, it's not studies but it is real, it's raw and it affects them every day. It affects their children, it affects their parents, and it makes it not the place where you want to come and live. This is contrary to where we want to be as a community, as a city and as a provincial direction in how our cities are growing.

I think we have a challenge in front of us, but to disregard any argument and to disregard the community here who live this every day is a mistake. I think that the SCAN legislation is a step forward in giving another tool to our communities in order to address this, one that is cost-effective, quicker, easier and not as onerous as the Civil Remedies Act. There has only been one case in the city of Ottawa where civil remedies was applied, because of the rigorous demands of meeting the requirements of the Civil Remedies Act.

This community, and other communities in all our cities who are challenged with these problems, are looking to you to set a direction for where our urban core and urban centres are going to go: how we bring people into the core, how we bring families back to live in the core, how we stop the sprawl, the urban sprawl, and make our urban centres the place to be.

Thank you very much, Mr. Chair and committee members.

The Chair (Mr. Michael Prue): You have left exactly two minutes, so that will be 40 seconds per caucus, starting with the Conservatives.

Mr. Bill Murdoch: I hear your presentation and I thank you for it. But you're telling me that we need a new bill so that you're able to enforce the laws that you already have? That's what you're saying.

Ms. Christine Leadman: No. I think what is said here is that the gap is there. The Civil Remedies Act is the removal of whole properties. This is not as draconian as that; this is actually giving an opportunity to remove the problem from the building but not take away the property. Civil remedies is a very draconian move, and that's why the requirement is so high. This is that middle ground that's more acceptable.

Mr. Bill Murdoch: Even though all the professional groups that sort of look after people are against it?

Ms. Christine Leadman: But as I indicated, with the crack pipe program it was the same thing, but they saw the other side of the coin and agreed that, yes, maybe that

does create a problem. They're very dedicated people, and so seeing the other side of the coin is not always an option when something like this is presented. I think that we have an opportunity to do that.

The Chair (Mr. Michael Prue): That's well over the 40 seconds. The NDP; Ms. DiNovo.

Ms. Cheri DiNovo: The entire city of Toronto is opposed to the SCAN legislation. I live at Queen and Dufferin; my husband was an officer with Waterloo regional at one point in his life. There are lots of other alternatives, including the Criminal Code, to deal with people.

I just want to bring your attention to the fact that John Howard, CAMH and all the legal tenants' organizations and advocacy for tenants organizations work with those who are marginalized. They work on the street with them. They're not to be dismissed as mere academics who are quoting from studies. These people are quoting from real, lived experience. On my street we have a crack house, and guess what? Do you know that crack addicts also have children, they also have needs, they have health concerns? They are in fact human beings. They don't deserve homelessness. I'll leave it at that. Thank you.

Ms. Christine Leadman: Yes, thank you, and as I—

The Chair (Mr. Michael Prue): She didn't leave you any time to answer it.

Ms. Christine Leadman: Oh, well.

The Chair (Mr. Michael Prue): Go ahead. That's fine. You've got 40 seconds.

Ms. Christine Leadman: What I said in my presentation was that it's not dealing with the addict; it's dealing with the criminal element and the dealer. I think that at this point, this is the challenge we're looking for. Thank you.

The Chair (Mr. Michael Prue): Thank you very much.

Just for all those who are present, I know it seems awfully strange for 10 minutes, but this was imposed on us by the Legislature and I must follow those rules. So it's 10 minutes; that's it.

Okay, that would be the time for deputations.

Now the committee has an option on how we wish to proceed. We can either go directly to the clause-by-clause analysis or we can deal with the other item that is before the committee as well, if there is time permitting, which is the consideration of the draft report on regulations. I am in the hands of the committee. Which way do you wish to proceed?

Mr. Gerry Martiniuk: Are we finished?

The Chair (Mr. Michael Prue): That's the end of the deputations, yes. We still have some 10 minutes left before we break.

Mr. Paul Miller: Do you want to go to clause-by-clause now or do you want to hold it until later?

The Chair (Mr. Michael Prue): You don't ask me. I'm asking the committee. I'll ask the mover of the bill; I think that's appropriate.

Mr. Yasir Naqvi: I'm obviously in your hands. There's an hour scheduled for this afternoon. I have

tabled eight amendments to the legislation to further present some safeguards as we've heard in the submissions from the deputants. We're in your hands, as you wish.

Interjections.

The Chair (Mr. Michael Prue): I hear some murmurs that we get on with it, so Mr. Naqvi, the floor is yours. You have an amendment. Anyone else who has amendments may do so either now or at 1 o'clock, but we'll deal with his at this point.

Mr. Yasir Naqvi: I'll just move the eight amendments I have, Mr. Chair. Is that correct?

The Chair (Mr. Michael Prue): One at a time.

Mr. Yasir Naqvi: Of course.

The Chair (Mr. Michael Prue): First of all, there's a whole procedure here to go through the bill. The first amendment deals with section 1. If you can start with section 1.

Mr. Yasir Naqvi: I move that clause (a) of the definition of "specified purpose" in subsection 1(1) of the bill be struck out.

The Chair (Mr. Michael Prue): Is there any discussion on this amendment?

Mr. Paul Miller: Yes. I'd like an explanation, Mr. Chairman, on why you're striking it out and what was there originally.

Mr. Yasir Naqvi: Absolutely. The current definition of "specified purpose" is a very integral provision, Mr. Chair. It says, "'specified purpose' means use of a property,

"(a) for the use, consumption, sale, transfer or exchange of an intoxicating substance...."

In my various consultations, it was highlighted that that's a fairly broad purpose that is defined, which would create vagueness and ambiguity and could catch situations which are not habitual in nature, which goes to the heart of this legislation. Clause (c), which also speaks to the consumption of intoxicant, is more precise, and it actually gives grounds on which this legislation could act. In order to ensure that there is no vagueness or room for abuse in this bill, I am moving that clause (a) be struck out.

The Chair (Mr. Michael Prue): Further discussion? None? Then we'll call for the vote.

Mr. Gerry Martiniuk: Recorded vote, please.

Ayes

Balkissoon, Colle, Craitor, Naqvi, Ruprecht.

Nays

Martiniuk, Paul Miller, Murdoch.

The Chair (Mr. Michael Prue): That carries. We now have motion number 2 by Mr. Naqvi.

Mr. Yasir Naqvi: I move that clause (e) of the definition of "specified purpose" in subsection 1(1) of the

bill be amended by striking out clause (e) and substituting the following:

“(e) for a common bawdy house, as defined in part VII of the Criminal Code (Canada);”

The Chair (Mr. Michael Prue): Any discussions? Seeing none—

Mr. Gerry Martiniuk: Recorded vote, and I'd like to say something.

I will be voting against all of the amendments, along with my friend. I will be voting against every clause of this bill. We will be voting against the bill in total and the report to the House.

I have rarely seen a bill come to this Legislature that would remove the fairness that our judicial system has inherently. Many struggles throughout the centuries have stated that we must meet our accuser, and this bill will permit penalties from anonymous tips. I think it's a disgrace. There's got to be another way. I understand the problem that you're trying to meet, but such an onerous penalty against individuals—not being able to meet their accuser and the accusations—is intolerable, in my opinion. It takes our freedom away, not just for addicts, but it takes everybody's freedom away. I don't think that is something that this Legislature should be dealing with.

1010

The Chair (Mr. Michael Prue): I saw Mr. Murdoch first, and then Mr. Miller.

Mr. Bill Murdoch: I just want to echo what Gerry said. I understand what you're trying to do, but this bill, as Gerry says—you just can't support it. You can't create more bills like this, and I think your police will have more paperwork out there. If you're going to do anything like that, you're going to have to look at other bills that we have and amend them. You can't start creating bills, especially like this. I do have trouble with the idea that you can't meet your accuser. It's just a crazy society we're going to create.

As I say, I understand what you're trying to do, but you can't do it with this bill. I'm shocked that the government of the day wants to bring this bill back. They had a chance to bring in four bills, this being one of them. I'm really shocked that it's here in the present form. I just want to put that forward, so I'll be with Gerry. We'll have to vote against everything.

The Chair (Mr. Michael Prue): Mr. Miller and then Mr. Naqvi.

Mr. Paul Miller: I personally have a major problem with the power that you've given this director. Who will the director be? Who appoints him? Is it a government? Is it a community?

It seems to me that in one part of bill, he has the ability to enter a property without notification at any time, or he can delegate one of his people from his office to enter a property without any notification. That's a major problem. I think you're creating a safety problem for the people working in his office, or for him, or for the individuals whose house he's going into. I mean, if somebody went in there, you don't know if the person is armed. You don't know if they're having psychological

problems. You don't know what's going on in that house and having a perfect stranger go into their house—even if he's with a sheriff or an officer of the court—I think is ridiculous. I think you're going to have some major, major problems and a lot of people are going to be sued. That's a real problem in this bill, and I can't support it.

The problem with a bill is—it's just like on the floor of the House—you either like it or you don't. A lot of amendments that are suggested are not accepted by the ruling party, and the opposition party's only way is to vote against the whole thing because they can't get what they feel is in there to help it.

There's not a lot of movement on the government's part, on most of these committees because they have the 5 to 3 vote. It's very frustrating as an opposition member. Even if there are good aspects to a bill, you either like it or you don't, because they won't accept your amendments. So if that's the purpose, I'm all for bills that are good and the good parts of a bill, but unfortunately, you're not able to get in the things that you feel would be a betterment to the bill because you're being blocked by partisan politics. I have a real problem with that. I cannot support it.

The Chair (Mr. Michael Prue): Mr. Naqvi and then back to Mr. Murdoch.

Mr. Yasir Naqvi: Thank you very much, Mr. Chair. I just want to take this opportunity to clarify some mischaracterization that has taken place.

First of all, this legislation has been enacted in other provinces: Manitoba in 2001, Saskatchewan, Alberta, Newfoundland and Labrador, Nova Scotia and Yukon. It has been brought by both the NDP and Progressive Conservative parties. This particular version, in fact, is far more progressive in terms of learning from the experiences of other jurisdictions and making sure that there are proper safeguards for all involved.

Number two, there has been thus far, to my knowledge, no constitutional challenge to this mechanism, both on the grounds of division of powers and charter challenge. It has upheld the codes and has been in force since 2001.

The last point I will make—and it's an important point and one that has not been raised by the deputants—is that the director of SCAN has no powers. He or she is an administrator. Any order that is made that is a community safety order, under this legislation, or any provision to enter a property, is made by a Superior Court of Justice.

The director of SCAN, if he feels that the very strict legal test that has been outlined in this legislation, which is as follows: that a property has to be habitually—that is, on a regular or frequent basis—used for a specified illegal activity which is listed in this legislation and there is an adverse effect on that community, i.e., a negative impact on the health, safety or security of that neighbourhood, the director of SCAN then is required to make an application to the Superior Court of Justice, and then the judge who presides over that particular code is the one who is going to make a decision. We know that if we

are in front of a court, there are rules of evidence that are applicable. Obviously, a judge will not make a decision without making sure the proper evidence is put forward.

I just want to clarify to all my honourable colleagues that this legislation does not in any way take away from the courts or from the due process, because otherwise, this would be unconstitutional; it wouldn't even be here or be enforced and implemented in other provinces. So I just wanted to have that presented in front of the committee.

The Chair (Mr. Michael Prue): We're going back to a second round, and that's okay, but I just want to remind people that we are dealing with the motion before us, which is to redefine a common bawdy house as set out in the Criminal Code.

Mr. Murdoch cedes. Mr. Miller.

Mr. Paul Miller: It's funny you just made the statement that he doesn't have any power. Section 3: "The director is not required to give reasons for any decision made under this section." What does that mean?

The Chair (Mr. Michael Prue): We're not dealing with section 3 yet.

Mr. Paul Miller: What I'm trying to say is that he says the director has no power. It also says in the bill that the director can enter a property and he can delegate someone else from his office to enter a property. It says that right in your bill, Mr. Naqvi. I'm confused about why you say the court's doing all this.

The Chair (Mr. Michael Prue): I'm going to ask that you both hold your thoughts on that until we get to section 3. There will be time in section 3 to go through that.

Right now, we're dealing with section 1, and the motion before us is to change the definition for a common bawdy house as defined in part VII of the Criminal Code of Canada. Any further discussion on this motion?

Interjection.

The Chair (Mr. Michael Prue): I've had a request for a recorded vote.

Ayes

Balkissoon, Colle, Naqvi, Ruprecht.

Nays

Martiniuk, Paul Miller, Murdoch.

The Chair (Mr. Michael Prue): Carried.

Motion number 3, also dealing with section 1.

Mr. Yasir Naqvi: I move that clause (h) of the definition of "specified purpose" in subsection 1(1) of the bill be struck out and the following substituted:

"(h) for any purpose that contravenes an act or a requirement under federal law, if that purpose is prescribed;"

The Chair (Mr. Michael Prue): Any discussions? Any questions?

Mr. Bill Murdoch: Recorded vote.

Ayes

Balkissoon, Colle, Craitor, Naqvi, Ruprecht.

Nays

Martiniuk, Paul Miller, Murdoch.

The Chair (Mr. Michael Prue): Carried.

Are there any other motions on section 1? Seeing none, shall section 1, as amended, carry? All those in favour?

Mr. Bill Murdoch: Recorded vote.

Ayes

Balkissoon, Colle, Craitor, Naqvi, Ruprecht.

Nays

Martiniuk, Paul Miller, Murdoch.

The Chair (Mr. Michael Prue): That carries.

Are there any amendments to section 2? Seeing no amendments, shall section 2 carry?

Mr. Gerry Martiniuk: Recorded vote, please.

Ayes

Balkissoon, Colle, Craitor, Naqvi, Ruprecht.

Nays

Martiniuk, Paul Miller, Murdoch.

The Chair (Mr. Michael Prue): Carried.

Are there any amendments to section 3? I believe there were some questions here; there was some dialogue. Mr. Miller.

Mr. Paul Miller: It says right here, "Reasons not required." Under that title—

Mr. Yasir Naqvi: Which section are you looking at, Mr. Miller?

Mr. Paul Miller: Section 3, first line:

"Reasons not required"

"The director is not required to give reasons for any decision made under this section."

Mr. Yasir Naqvi: Mr. Chair, that's under subsection 4(3); it's not under section 3.

The Chair (Mr. Michael Prue): It's 4(3).

Mr. Paul Miller: Okay, 4(3). We'll wait till we get to 4(3); no problem.

The Chair (Mr. Michael Prue): In section 3, are there any amendments, any discussions, any questions?

Mr. Gerry Martiniuk: Recorded vote, please.

Ayes

Balkissoon, Colle, Craitor, Naqvi, Ruprecht.

Nays

Martiniuk, Paul Miller, Murdoch.

The Chair (Mr. Michael Prue): Section 3 carries.

1020

Mr. Bill Murdoch: Point of order—and I don't know whether this is or not, but I would like to put on the record that in our party, we certainly haven't been whipped to do this. We're doing this because we feel it's not a good bill. Definitely, our party was not whipped to vote this way. We just feel that it's not a proper bill and shouldn't be put in, and that's why we're voting this way.

The Chair (Mr. Michael Prue): It's not a point of order, but you've made your statement. I cannot speak on whether people have been whipped or not—

Mr. Bill Murdoch: No, I know you can't, but it certainly looks that way.

The Chair (Mr. Michael Prue): I just want to say that the members are voting as they deem fit, for whatever reasons they choose.

Mr. Bill Murdoch: In your opinion.

The Chair (Mr. Michael Prue): Well, no, I have to be fair to all. I'm the Chair.

Section 4: We have an amendment here on subsection 4(2) and we do have some discussion. I am also mindful of the time. We can begin, but we'll have to wind it up in approximately three or four minutes and come back this afternoon.

Mr. Naqvi, you have a motion number 4.

Mr. Yasir Naqvi: I move that subsection 4(2) of the bill be amended by striking out "if he or she decides not to act on a complaint" at the end and substituting "if he or she decides not to act or to discontinue acting on a complaint".

The Chair (Mr. Michael Prue): Is there any discussion on this motion?

Mr. Bill Murdoch: Recorded vote.

Ayes

Balkissoon, Colle, Craitor, Naqvi, Ruprecht.

Nays

Martiniuk, Paul Miller, Murdoch.

The Chair (Mr. Michael Prue): That carries.

I believe there were some questions, so let's begin that. We've got about two minutes. Mr. Miller, you had a question on subsection 4(3).

Mr. Paul Miller: I'll reiterate: The question was, in subsection 4(3): "The director is not required to give reasons for any decision made under this section." What does that mean?

Mr. Yasir Naqvi: This refers to if a director has received a complaint and either decides to commence a complaint if the strict legal test is met or decides not to

commence—discontinue—a complaint because he or she feels that the test is not met or is frivolous in that regard.

You will also notice, moving on, in section 6 one of the very first steps a director is required to do is take an alternative dispute resolution mechanism, bringing all the parties together—community groups, social groups—to ensure that there could be a dispute resolution to the problem. In that way, information is disclosed to everybody engaged.

Mr. Paul Miller: Okay, fine. Why have subsection (3), then? If you're going to do that in section 6, why are you saying that he does not have to give reasons for his decision? What court—

Mr. Yasir Naqvi: If you're suggesting an amendment—

Mr. Paul Miller: What system or what court in the land doesn't have to give a reason for a decision? I've never heard of that. That should be struck right out.

Mr. Yasir Naqvi: Are you suggesting an amendment?

Mr. Paul Miller: I'm suggesting you strike that out. Yes, I'm suggesting—

The Chair (Mr. Michael Prue): If the members do not want—you cannot just have a motion for that. You just vote no to it.

Mr. Paul Miller: Okay. See, that's what I mean. That's what I was saying before.

Mr. Bill Murdoch: You can move an amendment.

The Chair (Mr. Michael Prue): Well, you can move an amendment, but if you want to—

Mr. Mike Colle: Move the amendment.

Mr. Paul Miller: No, I don't want to—the whole bill is bad.

Mr. Mike Colle: Move the amendment.

Mr. Bas Balkissoon: Mr. Chair.

The Chair (Mr. Michael Prue): I have Mr. Balkissoon.

Mr. Paul Miller: Are you going to vote for it?

Mr. Mike Colle: Yes.

The Chair (Mr. Michael Prue): Please, no side discussions. Mr. Balkissoon has the floor.

Mr. Bas Balkissoon: Mr. Chair, if I could just help my friend on the other side: If you read subsection 4(1), it says all the things that take place for a complaint. All it says is that if the director decides not to proceed with the complaint and investigate it and take action, he notifies the complainant in writing and closes his file, but he does not state a reason.

Interjection.

Mr. Bas Balkissoon: Because if you state a reason, then you will carry on the discussion.

Mr. Paul Miller: But that's counterproductive. It's ridiculous. If you make a decision on something, you have to give a reason for it.

Mr. Bas Balkissoon: Well, you're not going to ask the director to proceed—

Mr. Paul Miller: Why not?

Mr. Bas Balkissoon: —with a frivolous complaint.

Mr. Paul Miller: So one person gets what he wants to hear and the other person doesn't, and he doesn't get a reason for it? That's ridiculous.

Mr. Bas Balkissoon: Then amend it, if you want. If you want frivolous complaints to be logged—

The Chair (Mr. Michael Prue): Okay. I think we have reached the appropriate time. We're going to have to break within a minute.

Mr. Mike Colle: I have a motion—

The Chair (Mr. Michael Prue): A motion? Well, the bell—

Mr. Mike Colle: —a motion to strike the section that refers to the director not having to give a reason.

Interjection.

The Chair (Mr. Michael Prue): The amendment will have to be written. We're going to have to break now. If you come back with that amendment, give it to legal counsel. At 12 o'clock, we will start there.

Mr. Gerry Martiniuk: Can we leave our materials?

The Chair (Mr. Michael Prue): Everything can be left here. The room will be locked. But please, leave no personal items.

We stand in recess. We will commence precisely at 12 noon, and we will have one hour in which to complete this bill.

The committee recessed from 1026 to 1203.

The Chair (Mr. Michael Prue): We'll call the meeting to order. Members are now present.

Mr. Paul Miller: Chair, I have a request. Also, can I seek unanimous consent for Ms. DiNovo to take over for me? It's her portfolio and her area. I would ask that she sub for me.

The Chair (Mr. Michael Prue): You are seeking unanimous consent to amend the current sub slip that we have to include this afternoon.

Interjection.

The Chair (Mr. Michael Prue): No, there can only be one of them.

Interjection.

The Chair (Mr. Michael Prue): No, no, it's not a motion. Is there unanimous consent? Granted. Thank you. Ms. DiNovo, you will be there for the New Democratic Party.

We were on—

Mr. Bill Murdoch: Can I ask a question? It can be on any section you want. Is this act an enabling act or not? If this act is passed, does this force every municipality to do this? I understand from the bit of research—well, we heard that Ottawa was here and they said that they support it, I understand maybe Hamilton supports it, but I haven't heard from any other municipalities.

Mr. Bas Balkissoon: Subsection 2(1): The municipality has to pass a bylaw.

Mr. Bill Murdoch: If I could have that clarified.

Ms. Tara Partington: If I could refer you to section 2 of the bill: It says that the act only applies in a "municipality if the council passes a by law appointing a director of safer communities and neighbourhoods for the

municipality." Those are the only circumstances in which the bill would actually apply.

Mr. Bill Murdoch: Okay, so if a municipality just carried on the way they're doing it right today, there would be no—

Interjection: It would stay the same.

The Chair (Mr. Michael Prue): So has your question been answered?

Mr. Bill Murdoch: Yes.

The Chair (Mr. Michael Prue): Thank you.

We were, at the last opportunity, talking about motion number 4, was it not?

The Clerk pro tem (Mr. Trevor Day): Motion number 4 carried.

The Chair (Mr. Michael Prue): Motion number 4 carried, excuse me. Now we have 4.1, which is a new addition. Everybody has it in front of them. Ms. DiNovo, since you're the new member, did you get it as well?

Ms. Cheri DiNovo: Yes, I did.

The Chair (Mr. Michael Prue): All right. Motion number 4.1, Mr. Naqvi.

Mr. Yasir Naqvi: Thank you, Mr. Chair. Based on the suggestion made by Mr. Miller, I move that subsection 4(3) of the bill be struck out.

The Chair (Mr. Michael Prue): This is a motion to strike out 4(3). Is there any discussion on this?

Mr. Gerry Martiniuk: Yes, I'd like an explanation of that. Subsection 4(3): "The director is not required to give reasons for any decision made under this section." That is what you're eliminating?

Mr. Yasir Naqvi: Yes.

Mr. Gerry Martiniuk: Is there no amendment to provide for an onus on the director to give reasons for his decision?

Interjection.

Mr. Yasir Naqvi: I believe Mr. Colle is submitting an amendment. Shall we entertain an amendment to the amendment, Mr. Chair?

The Chair (Mr. Michael Prue): No, we have a motion before us. This is the way it has been put. It's not been put in any other way. This is a motion to delete the subsection. If someone wants to add a new one, you can deal with that at that point.

Mr. Yasir Naqvi: I'll withdraw the motion, Mr. Chair. Can I not withdraw—

Mr. Bill Murdoch: Can we not have an amendment before that one now?

The Chair (Mr. Michael Prue): It is his amendment. If he chooses to withdraw it, then it is withdrawn.

Mr. Bill Murdoch: Yes, but he's only doing that because—

The Chair (Mr. Michael Prue): He can do it for whatever reason. I'm not going to think about his motive. He has withdrawn it. It is not before the committee. All right.

Interjection: It's withdrawn.

The Chair (Mr. Michael Prue): It's withdrawn.

I have now before me the next item, which is 4.2. It's not standing in the name of anyone.

Mr. Tony Ruprecht: Chair, on a point of order: I think that on that amendment, Mr. Colle has an amendment to substitute—

Mr. Mike Colle: That's what we're dealing with.

Mr. Tony Ruprecht: Okay.

The Chair (Mr. Michael Prue): I have 4.2 but it does not specify on it—is it Mr. Colle?

Mr. Mike Colle: Yes.

The Chair (Mr. Michael Prue): Then, Mr. Colle, the floor is yours.

Mr. Mike Colle: Yes, just briefly, as suggested by the NDP—

The Chair (Mr. Michael Prue): It must be moved.

Mr. Mike Colle: I move that subsection 4(3) of the bill be struck out and the following substituted—so to take out—

The Chair (Mr. Michael Prue): No, no, please read it into the record.

Mr. Mike Colle: “Reasons required

“The director shall give reasons for any decision made under this section.”

The Chair (Mr. Michael Prue): All right. You have the motion now properly before you. Is there any discussion? Ms. DiNovo first and then Mr. Martiniuk.

Ms. Cheri DiNovo: I just want to make very clear for the record that I'm going to vote against this amendment. It's not a motion put forward by the NDP. We are in fact against this entire bill. We're not going to sweeten this bill by changing something here and tweaking something there.

In fact, we think the bill is unconstitutional and ultra vires, which is to say we think this flies in the face of section 7 of the Charter of Rights and Freedoms. We also think it's ultra vires in the sense that here is a provincial government passing something that really does affect the Criminal Code in the way that criminal law is carried forth, and also the charter. So we'll be voting against every amendment, irrespective of the content of the amendments, and we'll be voting against the bill itself.

We think it's egregious that the government is even moving in this direction. We think everybody in Ontario should realize, particularly in inner Toronto communities, where the government of Toronto has opposed this bill—the fact that the member from Davenport and the member from Eglinton–Lawrence are even entertaining this bill should be known by their constituents, by all of those who work in social services, by CAMH and all of those who work in health care, by all attendants' advocacy groups, that this is what they're doing: flying in the face of their own city, flying in the face of all of those advocates for those communities.

I just want that on the record. This will be televised on Friday. We're horrified in the NDP that the government is moving forward on this bill. That said, I'll be voting against every amendment.

The Chair (Mr. Michael Prue): Mr. Martiniuk.

Mr. Gerry Martiniuk: Could I have legal counsel provide an answer to this question: If in fact the bill, in subsection 4(3), is amended to provide that the director

shall give reasons for any decision made under this section, will that decision and reasons therein now be subject to judicial review in some manner?

Ms. Tara Partington: Could I just take a moment before answering that question?

Mr. Gerry Martiniuk: Please do.

Ms. Tara Partington: Thanks.

The Chair (Mr. Michael Prue): Might I suggest, then, we recess for two minutes?

Ms. Tara Partington: Two minutes.

The Chair (Mr. Michael Prue): We stand recessed for two minutes.

The committee recessed from 1211 to 1213.

The Chair (Mr. Michael Prue): I'd like to call the meeting back to order. We would ask the people who are speaking there, if they need to, to take it outside.

Interruption.

The Chair (Mr. Michael Prue): Excuse me. The meeting is now called back to order. I would ask those at the back who are standing up to either take it outside or sit down. Thank you.

All right. The solicitor.

Ms. Tara Partington: Thank you. The decision of the director would be a decision being made under a statute. By virtue of that, judicial review would be available. The option would be available to go before a court and ask for the authority to make the decision and for the reasonableness of the decision to be reviewed.

Mr. Gerry Martiniuk: Would the decision also be subject to injunctive proceedings?

Ms. Tara Partington: No. All the remedies that would be available to an applicant in judicial review proceedings would presumably be available in those circumstances.

Mr. Gerry Martiniuk: Okay. I'm just trying to think of a practical case, in my limited intelligence. The director makes an order and gives reasons. A person is evicted from their home—

Ms. Tara Partington: Sorry. Maybe we need to take a step back. The decisions we're talking about are those listed in subsection 4(1).

Mr. Gerry Martiniuk: Yes.

Ms. Tara Partington: You'll see that there's no possibility for the director to make an order. It's the court that would make an order. What the director could do is apply for a community safety order. I don't think that circumstance would actually arise.

Mr. Gerry Martiniuk: Okay. Well, would the director's order and the reasons he gave be subject to review by the very court that is listening to an application for an order? Is that the procedure?

Ms. Tara Partington: Sorry, there is no—when you say “the director's order,” do you mean the director's decision; for example, the decision not to act on a complaint, or the decision to investigate?

Mr. Gerry Martiniuk: Yes.

Ms. Tara Partington: Regular judicial review proceedings would apply. I don't know if I could speak to

exactly all the procedures that would be involved in that. It would be an application for judicial review.

Mr. Gerry Martiniuk: Okay. What would usually form the subject? There are no transcripts that I would be used to. Would it be a matter of affidavit evidence of the director as grounds for an application? Would it be other evidence? What other evidence would be available?

Ms. Tara Partington: I'm not an expert on judicial review. I'm not a litigator. Those aren't questions that I can answer. I can say that the normal judicial review procedure of a statutory decision would be in place. I'd have to go away and get some more information for you on the exact procedure that would be followed and what evidence would be in play.

Mr. Gerry Martiniuk: I think it's really important that we have a firm understanding of the procedures provided for under this statute and the remedies. Without those, I don't really have sufficient information on which to base a decision as to the merits of this particular motion and the amendment.

I think it really is incumbent—I'd like to know the onus placed on the director in reaching "his decision." The evidence that would be presented before a judge would have to be more than his decision, I assume. There would be evidence of criminal activity of some kind. Would that be evidence of police? Would that be evidence of the director? Would it be evidence provided by neighbours? I think it's really crucial that we understand what information is going before the court as a result of the decision of the director.

The Chair (Mr. Michael Prue): If I could, the legal counsel is here to assist the committee and she can't answer the question any better than she has. In order for what you're asking, Mr. Martiniuk, to proceed, the committee would have to request that she be instructed to prepare that information and bring it back to the committee, and it would have to be a committee decision. So if you want to make such a motion, we'll stand down what's before us for a moment, see whether or not that motion has the authority of the committee, and if it does, then we'll get it. If it doesn't, then we must proceed.

Mr. Gerry Martiniuk: I would move that we request legal counsel to prepare a report determining and setting out the requirements of an approach to a judge for an order pursuant to this act, detailing the evidence presented before the judge, whether it was *viva voce*, whether it was affidavit evidence, whether or not evidence would be provided from neighbours or from the police. I think that type of evidence is very important so that we can be aware of the onus on the director in making his findings.

Mr. Bill Murdoch: Can I speak in favour of this?

The Chair (Mr. Michael Prue): Yes, it is a debatable motion, so—

Mr. Mike Colle: Can I speak to the motion? When can I speak to the motion?

The Chair (Mr. Michael Prue): I asked if it was all right to hold it down. I thought this was going to be very brief. Obviously this is not going to be brief. So I'm

going to have to just hold that. We know what you want. I'm sorry, I just thought it was going to be brief and we'd go back, but it's not; this is going to take some time.

Mr. Colle has the floor on the motion itself, and then I will recognize you immediately and your motion.

Mr. Mike Colle: Can I speak to my motion?

The Chair (Mr. Michael Prue): Yes, you're speaking to your motion.

Mr. Mike Colle: Thank you, Mr. Chair. It's a pretty simple motion in response to the request by the NDP to strike out or get rid of that section of the act which does not require the director to give reasons for any decisions made under this section. I have put forward a pretty simple amendment to that that simply does require the director to give reasons for any decisions he or she may make. That's my simple amendment, and I think it's in response to the request made by the opposite side.

The Chair (Mr. Michael Prue): Is there any discussion on this motion? And then we'll deal immediately with the next one.

Ms. Cheri DiNovo: Yes. People who are listening or watching this really should understand how egregious it is. Essentially, the original wording was that the director is not required to give any reasons. This speaks to the heart of what's absolutely wrong about this bill: You have a kangaroo court here set up in contradiction to the Criminal Code. That's why we're arguing, and I'm going to make a motion after Mr. Martiniuk's motion to ask for a legal ruling on whether we can even look at this bill, because I think it's unconstitutional, and I think it's ultra vires. So I'm going to ask for that after his motion.

1220

But suffice to say, while we're talking about this amendment, then the government quickly comes in with a handwritten amendment—that's how thoroughly this bill has been thought out—to say, "Well, yes, the director has to give some reasons." Where are we exactly? Is this Nazi Germany? Is this Russia before the fall of the wall?

Mr. Mike Colle: Point of order.

The Chair (Mr. Michael Prue): I really think that that has gone too far. I think you should withdraw that statement.

Ms. Cheri DiNovo: Okay. Sure.

Mr. Mike Colle: I really think she should withdraw that.

Ms. Cheri DiNovo: I withdraw, Mr. Chair.

The Chair (Mr. Michael Prue): If you would let me be the Chair—I've already asked her if she will withdraw that statement.

Ms. Cheri DiNovo: I will withdraw, Mr. Chair. Thank you.

The question is, here we're setting up a court system where again in a handwritten amendment we're asking somebody who's deciding over somebody's fate extrajudicially and they don't even have to give reasons. Well, now they have to give reasons. Wow, we're really moving ahead here in terms of democracy.

Still, the incumbent does not get to face his accuser. Still, the incumbent has to get a lawyer to represent

himself, which of course most people who will be targeted are not going to be able to afford to do. That speaks to the heart of what's problematic, and so problematic and so badly drafted. Again I draw the committee's attention, and everybody watching, back to another badly drafted bill which has been struck down by the courts, by the Attorney General, on speeding. So I want to prevent the government having further embarrassment from badly drafted, badly written bills here by asking for a legal opinion before it goes forward rather than having it tested and thrown out of the courts, which I warrant this would be.

I'll speak to the amendment, and then we can continue with the vote. Thank you, Mr. Chair.

The Chair (Mr. Michael Prue): Mr. Naqvi on the amendment, and then Mr. Colle. Please, on the amendment.

Mr. Yasir Naqvi: I just want to correct the record here because I think the honourable member is fear-mongering. With all due respect, I think she and some of the other members are demonstrating that they have not reviewed the bill thoroughly. Right now we're dealing with part IV—

Ms. Cheri DiNovo: Neither have you.

Mr. Gerry Martiniuk: Obviously.

Mr. Yasir Naqvi: Mr. Chair, I'm speaking to part 4. I'm talking to the amendment. Okay?

There is no kangaroo court being created. Part 4 just talks about, when a complaint is received, what steps a director can take. He can decide to initiate an investigation. He can decide not to initiate an investigation. That's a mechanism just like the police follow. When the police receive a report, they decide whether to initiate an investigation or not to initiate an investigation. That is the only step we are talking about. If the director decides to initiate an investigation and wants to get an order, then they have to go to the Superior Court of Justice. The director has no power whatsoever to make any order, and that is part IV of the bill, which starts with section 9, which I'm sure—hopefully—we'll get to, and that's where a judge, based on all kinds of evidence and rules of evidence, gets to make a determination. I just wanted to clarify that, Mr. Chair.

The Chair (Mr. Michael Prue): Mr. Colle.

Mr. Mike Colle: Just a comment: This is a private member's bill, and the gall of the member from Parkdale—High Park to criticize—

The Chair (Mr. Michael Prue): Let's not inflame the situation any more.

Mr. Mike Colle: She criticized the fact that my amendment—

Interjection.

Mr. Mike Colle: The amendment is handwritten. Well, the amendment is a result—

Ms. Cheri DiNovo: Could he withdraw that comment, please?

The Chair (Mr. Michael Prue): The member has taken umbrage. Would you—

Mr. Mike Colle: I'll withdraw whatever she wants me to.

Interjection.

Mr. Mike Colle: The member was objecting to the fact that a motion to amend has been presented in some format. It's a result of the debate that took place and the deputations that were made before this committee that each one of us sitting on this committee has the right to put forward an amendment. To deny me the right to put forward an amendment because it's handwritten is totally objectionable. I have the right to put forward an amendment if I want, and she cannot deny me that right to do so.

The Chair (Mr. Michael Prue): If I can, I'm trying to lower the temperature a little here. This is a very difficult situation for this committee. We were given four private members' bills. We were given one hour for deputations and one hour for clause-by-clause. So, everybody remember that the House set these parameters, and it's not possible to have them all typed out and neat when you only have one hour, and you only have an hour between the time of the deputations and the time of the clause-by-clause. So it is constituted correctly, and I hope that would put an end to that. It's handwritten but it was as a result of what happened here this morning. Ms. DiNovo.

Ms. Cheri DiNovo: Just further discussion: I was not objecting to the member putting forward an amendment; I was objecting to the fact that the homework and the groundwork had not been done where the amendment was so egregiously necessary.

Mr. Mike Colle: Point of order: She's again denying me the right to put forward an amendment, which I have the right to do as a result of this committee.

The Chair (Mr. Michael Prue): I didn't hear—no one is denying you. Your amendment is properly before the committee.

Mr. Mike Colle: She's objecting to my right to put forward an amendment.

Ms. Cheri DiNovo: No, I'm not.

The Chair (Mr. Michael Prue): With the greatest of respect, I just want everyone to know we have a proper amendment. It is properly before us. It cannot be said it's not proper. I did not hear her saying that. The question to be debated is the question of the contents of this motion. Please, to the contents of the motion.

Ms. Cheri DiNovo: Absolutely, and to the role of the director—and I thank Mr. Naqvi for clearing something up. Essentially what I got from his comments is that the director has the same powers as the police, which frightens me even more. So what you're saying is that the director has the power to either pursue this or not as a police person would. Again, I just want to state, from the New Democratic point of view, that that harkens back to my concern that this is ultra vires, that this flies in the face of criminal law and the way that we've structured our criminal justice system and certainly is unconstitutional.

The Chair (Mr. Michael Prue): Mr. Murdoch.

Mr. Bill Murdoch: I'm glad to get on the mike here. First of all, though, I object to being told that we didn't look at the bill, because we didn't understand this

amendment that's before us. That didn't help things out very well. If you want to get into calling names, we could say, "Well, the government didn't look at the bill very much, because look at all the amendments you've got." I always think when a government, no matter who it is, puts in a bill and then they have to amend it, those are mistakes they made the first time. So don't blame us for not looking at it; everybody can maybe take a little blame on this one.

Now, we're looking at an amendment to the bill and, yes, that's what we in the opposition asked for, but it doesn't make any difference, it doesn't change the bill much, and that's what we're really concerned about. But we have to vote on this amendment. Here's my dilemma: Mr. Martiniuk put on the record what he would like to see done, and that needs to be done before we vote on this amendment. If you vote on this amendment now, then his becomes redundant. So I don't know—

The Chair (Mr. Michael Prue): The only—

Mr. Bill Murdoch: You can correct me; I just have a little bit more here—can we make an amendment to the amendment? Then we would hear Mr. Martiniuk's amendment first, because if you don't, you make his redundant. He wants to look at some things that would make us vote on this amendment for or against.

I also understand that the government has mentioned that it is done in other provinces, which is fine. I'd like to know what cities have adopted it, then, and that could all come before we'd vote on this.

The Chair (Mr. Michael Prue): If I can suggest, there are two procedural ways that this can happen, what you're asking, if you want Mr. Martiniuk's question to be answered first. You can make an amendment to the amendment, but it would have to be directly related to this motion; or you could ask for the consent of the committee to stand this down until Mr. Martiniuk's motion is made.

Mr. Bill Murdoch: Well, I'd like to see—because this is sort of important.

The Chair (Mr. Michael Prue): If you want an amendment to the amendment, you have to propose it. I cannot make it up for you.

Mr. Bill Murdoch: When I'm off the mike here, I'll let Mr. Martiniuk propose that, then. I'll give it to you, Gerry, and then see what happens.

The Chair (Mr. Michael Prue): I have Mr. Martiniuk next and then Mr. Ruprecht. Mr. Martiniuk, do you have an amendment to the amendment?

Mr. Gerry Martiniuk: Yes. We've been put in a most difficult position, if I do say so myself. I am really concerned about this director, and there was a—

The Chair (Mr. Michael Prue): No—

Mr. Gerry Martiniuk: I'm speaking to the amendment. I do believe I have 20 minutes to speak to the amendment if I so choose. Is that not correct?

The Chair (Mr. Michael Prue): All I'm asking—are you speaking to this amendment—

Mr. Gerry Martiniuk: Yes, I am.

The Chair (Mr. Michael Prue): —or to the amendment to the amendment?

Mr. Gerry Martiniuk: No, I'm speaking to—

The Chair (Mr. Michael Prue): Sorry, I thought you were making an amendment to the amendment. If you were, I wanted you to state it first before you spoke to it.

Mr. Gerry Martiniuk: Firstly, Mr. Chairman, I rarely speak for 20 minutes, I must admit. I'm a person of short words, in keeping with my stature. But I must say, and I do say, that I am really concerned about the role of this director and this particular motion. You see, now this amendment in effect would provide for a director under this act providing reasons for his decisions under this act. Someone mentioned that, just like a police officer, he gathers information. It raises another question: Is in fact the director a peace officer under the Criminal Code in this situation?

1230

Number one, if he is, could you provide the section that would provide that his authority is that of a police officer? Secondly, like a police officer who takes an oath when he enters his profession, does this director take any oath to provide the scope of his jurisdiction? Because, if he is like a police officer, then we must ensure that he has in fact the proper training as a police officer. "Peace officer" is a better word, because obviously he's not a police officer; he's a peace officer. Then the reasons we're talking about that go before the court have two weights. Credibility in this situation, the evidence of a peace officer—he has a certain onus to meet, he has a certain training to meet, and he's responsible to superiors. And here we have a director who—I didn't say it; someone for the government mentioned that—acts as if he were a police officer. I am really concerned that if in fact he has the authority of a police officer, or the scope of a police officer, then what training will be provided for this director?

Two, what oaths would this director take before entering his profession?

Three, this police officer, if that's what he now is, in fact, would have to be properly trained—and to whom is he responsible? The municipality? The director, if there is a director of this corporation? The board of directors? I'm sure that there's an administration. I neglected to observe that when I read the statute.

We are setting up a superpoliceman who is going to do all sorts of wonderful things for this municipality. We don't know whether he's going to be properly trained. We don't know whether he has to take an oath. We don't know to whom he's responsible. An ordinary peace officer is responsible to someone. A police officer, obviously, is responsible to a chief of police and to the police board. I served on a police board for almost eight years in the region of Waterloo. I realize the great pressures that are put on our individual police officers and the guidance that they require, not only from their chief but from the police board. It's a very difficult position to be in in this modern, complex world.

I am concerned that we're just sort of naming a director and that's it, and yet we expect him—they have stated that perhaps he would fulfill the job of a peace officer. I am most concerned with that.

I will move an amendment that the—

Mr. Bill Murdoch: All your concerns are adaptable.

Mr. Gerry Martiniuk: Thank you. Why didn't you do it for me?

Under section 4(3) of the bill, we have an amendment in subsection (3) that reads: "The director shall give reasons for any decision made under this section." What I would like to put after that is, "subject to the concerns of the training, oaths, scope of employment and submission to the proper authority."

Mr. Bill Murdoch: So you move an amendment to the amendment.

Mr. Gerry Martiniuk: That's an amendment to an amendment.

The Chair (Mr. Michael Prue): Did you get that all down? We're just going to make sure that it has all been written down. We'll read it back to you to make sure it's correct.

Mr. Mike Colle: It can't be handwritten, though. It has got to be typed.

The Chair (Mr. Michael Prue): I have already ruled on that.

Mr. Gerry Martiniuk: Can I have—

The Chair (Mr. Michael Prue): I have ruled on that. Handwritten is fine.

Mr. Gerry Martiniuk: Can I have 15 minutes to get it typed? I'll get it typed.

Mr. Mike Colle: Go ahead. Get it typed, or she won't allow it.

The Chair (Mr. Michael Prue): I have new-found respect for the Speaker. We're going to copy it. But I'm just going to read it out, and then we're going to get it copied. While I'm getting it copied, I'm going to recognize Mr. Ruprecht next, but it is on the amendment to the amendment that we're speaking.

The amendment to the amendment reads: "subject to the concerns of the training, oaths, scope of employment and submission to the proper authority."

Okay, Mr. Ruprecht, on the amendment to the amendment.

Mr. Tony Ruprecht: Yes, thank you very much, Mr. Chair. I'm trying to be helpful on this. Mr. Martiniuk has made this amendment to the amendment, and to try to be helpful, to my mind, it raises some questions that are of legal repercussions. Consequently, I'd like to make an amendment to the amendment of the amendment.

The Chair (Mr. Michael Prue): No, no. You can't go that far. It can't be done. An amendment to the amendment to the amendment? No.

Mr. Tony Ruprecht: It would be to stand this item down until we hear from legal counsel, and that may take some time. Consequently, that would be my amendment to the amendment.

The Chair (Mr. Michael Prue): No, no. That's not an amendment. Are you asking this committee to stand Mr. Colle's motion and the amendment to the amendment down?

Mr. Tony Ruprecht: Yes, if that's the way to do it, Mr. Chair. I'd appreciate your guidance on this. I would

ask that this matter be stood down until we hear from legal counsel.

The Chair (Mr. Michael Prue): You're asking to stand down the whole item?

Mr. Tony Ruprecht: That's right. The whole item.

The Chair (Mr. Michael Prue): The proposal by Mr. Colle and the amendment to the amendment?

Mr. Tony Ruprecht: Yes.

The Chair (Mr. Michael Prue): All right. We have a motion to stand this down. I need unanimous consent for this.

Ms. Cheri DiNovo: Is there discussion on the motion?

The Chair (Mr. Michael Prue): Just on the propriety, whether it's a good idea or not.

Ms. Cheri DiNovo: Okay, can I speak to that?

The Chair (Mr. Michael Prue): Okay, on the propriety, and unanimous consent is required—on the propriety.

Mr. Gerry Martiniuk: I don't understand the motion. Just so I can understand what you're saying, can I have the motion read out again?

Mr. Bill Murdoch: It's just a motion to stand this down.

The Chair (Mr. Michael Prue): He wants it stood down.

Mr. Gerry Martiniuk: Oh, okay. Sorry. That's all we're doing?

The Chair (Mr. Michael Prue): Yes. I've been advised by the clerk—I'm sorry, I'm more used to Robert's Rules Of Order than Bourinot's—that this is not a debatable item. It is either stood down, or it's not. It requires unanimous consent. Is there unanimous consent to stand this down? I heard a no.

On the amendment to the amendment: Mr. Ruprecht, is there anything you want to speak to?

Mr. Tony Ruprecht: Thank you. That's all.

The Chair (Mr. Michael Prue): Ms. DiNovo.

Ms. Cheri DiNovo: Yes, just on the amendment to the amendment, it raises the issue—and I'm not quite sure; I would ask for your direction, Mr.-most-patient Chair, because I agree with something that Mr. Ruprecht said, and basically that's what Mr. Martiniuk is calling for too: more legal expertise on this matter. If that's going to happen—and I'm not sure how to frame this—I'd like to hear about the constitutionality of this bill and the ultra vires aspect.

1240

The Chair (Mr. Michael Prue): This is the amendment to the amendment, which is very clear.

Ms. Cheri DiNovo: Okay.

The Chair (Mr. Michael Prue): It's subject to the concerns of the training, oath, scope of employment etc. That's what we're debating, not the Constitution. If you want to make that motion later, you're more than welcome to do so.

Ms. Cheri DiNovo: Sounds good.

The Chair (Mr. Michael Prue): We have a motion. I don't see any other speakers. We have an amendment to the amendment, moved by Mr. Martiniuk.

Mr. Bill Murdoch: Can I speak—

The Chair (Mr. Michael Prue): Well, I asked if there were—

Mr. Bill Murdoch: I'm sorry, I was just trying to be nice to you and let you ramble on. It's okay.

The Chair (Mr. Michael Prue): I asked. There did not appear to be any further speakers to this.

Mr. Bill Murdoch: We were discussing. We were conferring.

The Chair (Mr. Michael Prue): Are you wanting to speak to this?

Mr. Bill Murdoch: Yes.

The Chair (Mr. Michael Prue): Please, then, do so.

Mr. Bill Murdoch: Well, I just want to support it, because I think we need to know this. Mr. Martiniuk brought out a lot of concerns. We don't know what the director—my whole thing would be that we have been told, and I didn't know until today, that other provinces have done this. I would like to know—and this is just on this—where you could find out whether the directors that they've appointed—or are there even any other cities that have done it? It doesn't have to be done, even though Alberta will say—or was it Manitoba that had one? If they've done it, have any cities actually adopted it? Who did they pick for director and why? Things like that. That's why Gerry's amendment to the amendment makes sense, because we don't know that, and it doesn't say. I was looking through it, and I may have missed it and it could be pointed out to me, I'm sure, by somebody on the other side. Is there a description of the director in here? If there is—yes, okay. I was just looking through it and I didn't see it.

Mr. Yasir Naqvi: Yes, part 8.

Mr. Bill Murdoch: Part 8, all right. I must have jumped over that one. But anyway, maybe you would like to do that. If there is, that would be fine.

The Chair (Mr. Michael Prue): Mr. Naqvi.

Mr. Yasir Naqvi: Can I speak to the amendment to the amendment? I think what everybody is trying to get at—I'm just trying to cut through all this—is that we want a bit of legal analysis on this bill as to what the scheme of this bill is, and the constitutionality of this bill.

As the proponent of this bill, I am very comfortable moving in that direction. That's why I think Mr. Ruprecht's suggestion made sense, that we stand down this amendment to the amendment, and perhaps Mr. Colle's, and instruct legislative counsel to come up with a legal analysis on this bill as to the scheme which is suggested—how this act works, how it's practised in other provinces—and the constitutionality aspect. Perhaps that would be the most expedient way of doing things, as opposed to going in circles. As the proponent, I am comfortable with that.

The Chair (Mr. Michael Prue): I have to tell you, this is a private member's bill. Legislative counsel is here to provide legal advice and assistance; really, to answer the questions that we've put forward, not to go out and do legal—I think that's why each one of us has staff or people upon whom we can rely, or legislative counsel in total, to send a letter and ask for information. Really, that's the purpose. That is not why this solicitor is here

with us today. That is not the purpose for which she is here.

We have a motion before us. We've already had a motion to stand it down. That was defeated.

Ms. Cheri DiNovo: Call the vote.

Mr. Bill Murdoch: You can make that any time.

The Chair (Mr. Michael Prue): I know, but it has been defeated, and unanimous consent has been defeated, unless there's some indication that unanimous consent will suddenly be forthcoming. Is there anyone else to speak to the amendment to the amendment? Ms. DiNovo.

Ms. Cheri DiNovo: I'm not going to be supporting the amendment to the amendment, or the amendment, or the bill.

The reason I'm not going to be supporting the amendment to the amendment—and I want to put this on the record—is that despite the valiant attempt by the official opposition to amend the duties of the director, I would absolutely propose that the director inherently is a role that should not be played by somebody extra-judicially.

Mr. Naqvi was correct when he was describing it as a kind of police person. Even though we might, in this amendment to the amendment, describe the duties, like training, oaths, scope of employment, and submission to the proper authority, that doesn't go nearly far enough because, obviously, there's far more involved in becoming a police officer than just any amendment to the amendment that we could bring forward.

In fact, the role of the director is unconstitutional and ultra vires. No committee of the provincial government has the right to set up such a role.

I perhaps went over the top when I described it in terms of other jurisdictions, but I would suggest that it does tend towards the totalitarian and that we don't want that in Ontario. It's been indicated that we don't want that by the city of Toronto, by the John Howard Society, by the advocacy groups for tenants, by legal aid clinics across the province, by the Centre for Addiction and Mental Health, and I could go on. There are literally over 100 different organizations that oppose this directorship, even with the amendments to the directorship's role, and of course to the bill itself.

There's no point in voting for the amendment to the amendment, despite the Progressive Conservatives's argument to the contrary. I know they're doing their best; they're trying to make a silk purse out of this proverbial sow's ear, but the silk purse isn't pretty enough. We just can't do it. That's the problem. The amendment to the amendment does not get at what I believe the Progressive Conservatives want to get at, which is the problem of the constitutionality of this very bill.

I understand I've got 20 minutes to talk as long as I occasionally refer to the amendment to the amendment—is that correct?—which I will do because quite frankly, what I'm attempting to do is to talk out the hour. I'm trying to do everything possible to prevent the passage of this bill.

To get back to the amendment to the amendment and why I don't think it's going to correct the problems: It just makes a stab at doing what of course should have

been done, I would argue, before the bill was even thought of, and that is to look at what we're really doing here. What we're really doing here is setting up what I would propose is a kangaroo court, a court that's ultra vires, a court whose decisions, I believe, would be thrown out by the Supreme Court of Canada if they were challenged. The fact that that has not happened in other jurisdictions that have brought in SCAN legislation yet is simply a roll of the dice. I would certainly suggest to advocacy groups in those other jurisdictions who are concerned about the SCAN legislation to do just that, test its legality at the Supreme Court level, because I don't believe it is legal.

Inherent in this bill, which I find even more disturbing, is a kind of "those people" aspect that this amendment to the amendment does not get at. I described a little earlier, when we were listening to the deputations, how people with mental health issues and people with addiction issues are still people, that they deserve homes. In fact, guess what? People with criminal records deserve homes. Everyone deserves a home; that is what the UN charter says. I brought in a bill to this House that said that housing is a human right. It was not entertained with any seriousness by this government, the McGuinty government, but in fact that's what the UN calls upon Canada to do. It calls upon all jurisdictions to do that, and that is to ingrain housing as a human right.

If housing is a human right, then it's a human right for everyone. Whether they're a crack user, whether they have a criminal record, whether they're noisy at night, whether they smoke marijuana, whatever they do, they deserve housing. What this bill does is take them out of housing and throw them on the street or put them somewhere else unspecified—because there is nowhere else. We don't have enough shelters; we don't have enough affordable housing. We have 130,000 households waiting for affordable housing in the province of Ontario. Where are these people to go?

One deputant said it beautifully. She was talking about it being like squeezing Jell-O, and it was described that way by a police officer: You basically just move the problem somewhere else. You squeeze it at one end and it bulges out at the other end. So you move the crack house from your block, and guess what? It moves eight blocks over to somebody else's block. The problem is still there. This bill does not address the problem. It simply moves the problem.

I must say, in terms of the amendment to the amendment, it does it at great taxpayer expense. It will be downloaded to the municipalities, which is why Toronto, in all its wisdom, really came out quite strongly against Bill 106. They already have too much downloaded on their plate from this province. The million—millions; it always costs more than one thinks it will—that would go into putting this bill into action could actually build affordable housing. That's what we should be focusing on. It could actually be providing beds and treatment for those with addiction issues. As good citizens who love and care about one another—all of us, including those with addiction issues and those with criminal back-

grounds—I hope, particularly at this time of year, moving into Advent, we should be concerned with how to help people, not shuffling them off to somewhere else. Quite frankly, I find the characterizations of people with mental health and addiction issues quite disconcerting.

1250

As I said before, we have a crack house on my street, and guess what? Those are people struggling with addiction. Do they sometimes deal drugs to fuel their own habits? Yes, they do. Most pushers are addicts. If anybody has worked with this community, they will know that to be true. Are they still human? Do they still deserve housing? Yes, they do. Do they have children? Yes, they do. Quite frankly, addicts have children, and if we were to look at their children and look at how we're going to help those children instead of moving those children from home to home, we might get somewhere.

Bill 106 does not do that. In fact, the McGuinty government doesn't do that. They brought in their much-ballyhooed poverty reduction policy, and I've yet to see that poverty's reduced. Poverty is at an all-time high in this province and in this country. It's at an all-time high in this province, higher—and this strikes some people as shocking—than it was under Harris's regime. Homelessness is higher than it was under Harris. Addiction issues and mental health issues are still screaming for proper funding for those who would want to help them. We're cutting money, we've just discovered in the House, to children's aid societies. If this government were really serious about doing something about the core issues that this bill purports to address, then it certainly wouldn't be bringing in Bill 106; it would be building housing. It would be increasing the housing budget, which has, by the way, not been increased; it has been decreased. The housing ministry is only one of two ministries that have had their budgets decreased by the McGuinty government. The only reason they show more money is because the federal government has given them some money because we fought for it in Ottawa.

That's what we need to be looking at. We need to be looking at housing. We need to be looking at poverty. We need to raise the rates for ODSP and OW; that's what we need to do. The Harris regime cut those rates dramatically. If we gave people enough money to be able to buy or pay for affordable housing, then, again, this wouldn't be the problem it is. And why do we have this problem? I can tell you: It's poverty. Any study will show you that it's poverty. Poverty produces criminality; poverty produces addiction issues; poverty is the root cause. Why don't we look at the root cause?

Instead, we're wasting committee time, we're wasting taxpayer dollars and we're wasting taxpayers' time on debating amendments to amendments to amendments to a bill that, at its very heart, is really the very face of NIMBYism. That's what this bill is—"not in my backyard"—and that's what this bill purports.

In my riding we have an attitude called YIMBYism, "yes in my backyard," and I want to talk about how that's enacted when I talk about the amendment to the amendment. How YIMBYism is enacted is, you do actions that

are positive in scope, like the problem properties committee that I described a little earlier. It is a tool to provide affordable housing by looking at rental housing stock that's privately owned and making sure that the city is there and the police are there, and the various caregiver and stakeholder groups are there to look at these units and bring them up to speed, to bring units up to being habitable, because a number of the units in Parkdale were not. Some of them were cockroach- and rat-infested. They didn't have proper plumbing. So we looked at that. We also looked at whether there was criminal behaviour going on in those units. We addressed that properly, which is to say by using the Criminal Code, by using the police in the capacity that police should be used. If there was criminal behaviour going on, we addressed it. If there were landlord issues we addressed those, and one by one by one our councillors sat down with the stakeholders and the police, and one by one rehabilitated 800 different units. Does that make our neighbours happier? Absolutely, it does. We don't need draconian measures like this to keep people who are living next door to establishments described here as crack houses safe; we simply need to enact the laws we already have and to do that efficiently and effectively, which is what our councillors and our police are only too happy to do with our help.

The wonderful deputation that came from Waterloo region really spoke to that. It was very clear that the government was—talk about fearmongering—hoping to fearmonger in communities that happen to have addiction issues, mental health issues and, quite frankly, and I hope this isn't so—I've heard from some of the deputants who want to target racialized communities as well, although under this kind of draconian legislation anything is possible. Any neighbour ratting out any neighbour for any reason could be brought before Herr Director here and made to testify.

So inherent in this legislation is this idea that some people are better than other people, that some people are more deserving of housing than other people, that some people who have, let's say, disease issues—let's name them for what they are—are better than other people. So we can target people with mental health issues but we can't target people with cancer. If this was targeting people with cancer, we wouldn't be sitting around this table.

If this bill was substituting crack houses for—I don't know—palliative care homes for people with cancer, we wouldn't be having this discussion, but in fact that's what we're talking about. We're talking about health issues here, people with health issues. Drug issues are health issues. They are health issues and they are recognized as such by the city of Toronto in its four-pronged and very progressive, might I say, drug program.

In Parkdale another step we've taken which has helped dramatically is a drug strategy committee. What we do on that drug strategy committee is that we have the police sit, we have the health care providers sit, we have all of those who provide shelters and meals, and we have addicts who sit on that committee and let us know what

we can do, and, by the way, residents' associations and business improvement associations, and together we talk about the issues that face us and move forward as a community.

We don't pit neighbour against neighbour, which is what this bill does. It pits neighbour against neighbour: neighbours who are sober versus neighbours who are not, neighbours who are loud versus neighbours who are quiet. That's what this does. You heard in all of the deputations, with a few exceptions, of those who came before us those very concerns.

From a human rights standpoint, from a federal standpoint, from a standpoint really on this—it was Liberal. One of the good things the Liberals have done is the Charter of Rights and Freedoms. That's a good thing. It's good that we have that. This bill flies in the face of section 7 of that. It's unconstitutional.

It's ultra vires for the same reasons that my associates to my right here—and that's physical as well as ideological—have put forward. They have said that this really is ultra vires, that really we are giving the director, with this bill, police powers, and as such it steps out of the provincial jurisdictional bounds and is solidly federal in the sense that the Criminal Code is federal. So if we're going to start messing around with the Criminal Code, we can't do it in a provincial bill. It certainly wouldn't be the first time that this government has put forward a badly written bill and had it passed. Again, we've seen evidence of this. I mentioned this before with the speeding bill, which has been struck down by the courts. Does this government really want to put forward this bill that will be struck down by the courts? You know it will be. Are they willing to listen to reason? Are they willing to listen to the deputations? Are they willing to withdraw this bill—badly thought of, badly conceived, conceived out of fear?

How much longer do I have of my 20 minutes, Mr. Chair and timekeeper there?

The Chair (Mr. Michael Prue): You have approximately eight seconds.

Ms. Cheri DiNovo: I just want to thank you all, then. It's been fun speaking at you. I'll cede the floor now, but thank you for listening.

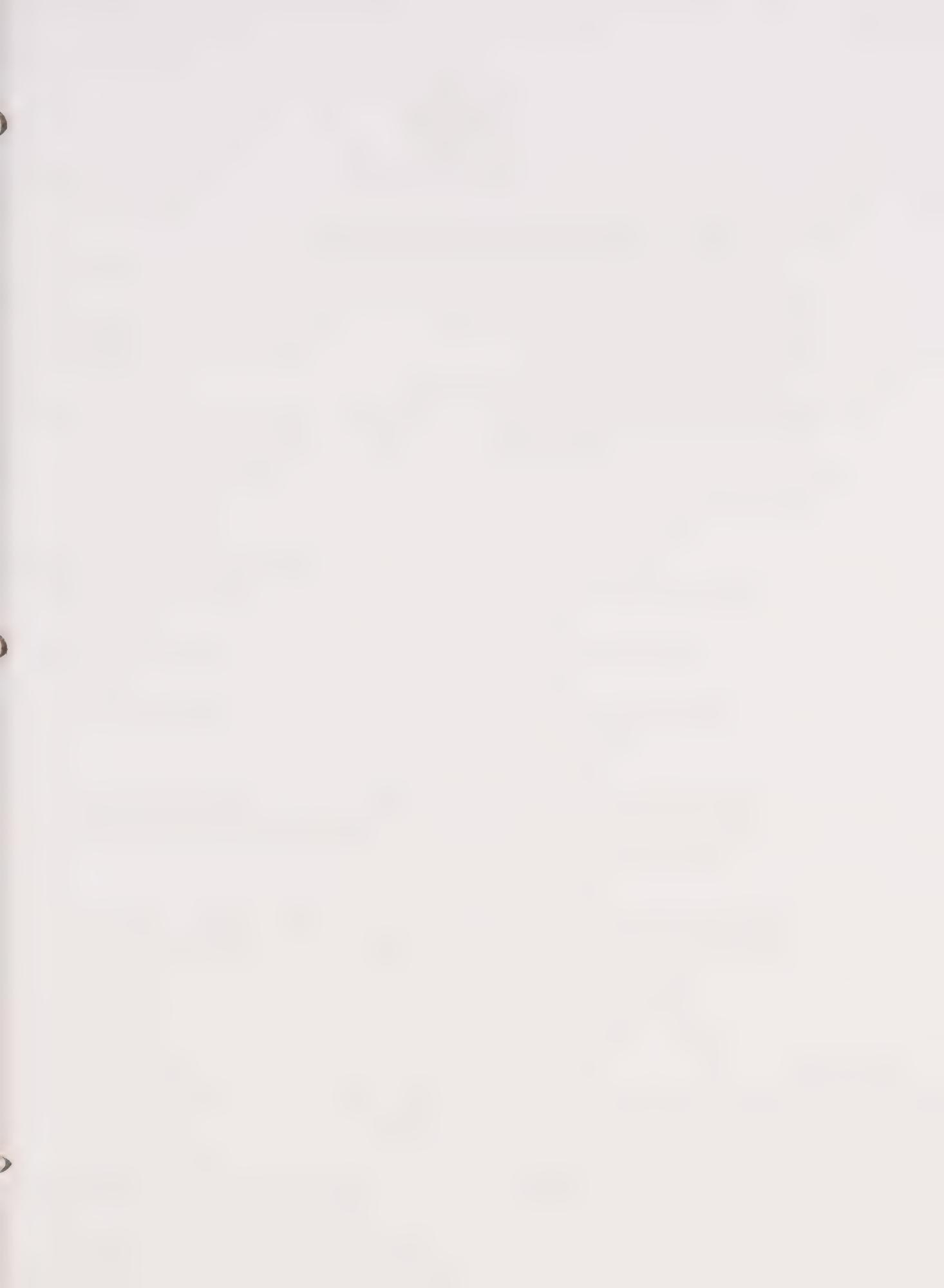
The Chair (Mr. Michael Prue): You're ceding it back to the Chair because according to this clock here, the time has expired. This is the one we are using, provided by the clerk. That one is notoriously not correct.

The time has expired. The House set the maximum limit of time for discussion of this bill for one hour, which concluded at 1 o'clock, which it now is. I have no alternative but to adjourn this till next Wednesday. There will be a new bill next Wednesday. As I told Mr. Leal on his bill last week and as I say to Mr. Naqvi on this bill, should the committee wish and if there is time, we will do everything we can to attempt to get back to it. But as it is, this bill is still there.

This committee stands adjourned and will reconvene for a new bill next Wednesday at 9 o'clock sharp.

The committee adjourned at 1300.





CONTENTS

Wednesday 25 November 2009

Safer Communities and Neighbourhoods Act, 2009, Bill 106, <i>Mr. Naqvi / Loi de 2009 sur la sécurité accrue des collectivités et des quartiers</i> , projet de loi 106, <i>M. Naqvi</i>	T-95
Centre for Addiction and Mental Health.....	T-95
Mr. Barney Savage	
Advocacy Centre for Tenants Ontario; Housing Help.....	T-96
Mr. Kenn Hale	
John Howard Society of Ontario	T-98
Ms. Else Marie Knudsen; Mr. Greg Rogers	
Hintonburg Community Association	T-100
Ms. Cheryl Parrott; Mr. Charles Matthews	
Waterloo Region Crime Prevention Council.....	T-102
Ms. Christiane Sadeler	
Ottawa City Council.....	T-103
Ms. Christine Leadman	

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ISSN 1180-4319

Legislative Assembly of Ontario

First Session, 39th Parliament

Official Report of Debates (Hansard)

Wednesday 2 December 2009

Standing Committee on
Regulations and Private Bills

Fire Protection Statute Law
Amendment Act, 2009

Chair: Michael Prue
Clerk pro tem: Trevor Day

Assemblée législative de l'Ontario

Première session, 39^e législature

Journal des débats (Hansard)

Mercredi 2 décembre 2009

Comité permanent des
règlements et des projets
de loi d'intérêt privé

Loi de 2009 modifiant des lois
en ce qui a trait à la protection
contre l'incendie



Président : Michael Prue
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Telephone 416-325-7400; fax 416-325-7430
Published by the Legislative Assembly of Ontario



Service du Journal des débats et d'interprétation
Salle 500, aile ouest, Édifice du Parlement
111, rue Wellesley ouest, Queen's Park
Toronto ON M7A 1A2
Téléphone, 416-325-7400; télécopieur, 416-325-7430
Publié par l'Assemblée législative de l'Ontario

LEGISLATIVE ASSEMBLY OF ONTARIO

**STANDING COMMITTEE
ON REGULATIONS
AND PRIVATE BILLS**

Wednesday 2 December 2009

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

**COMITÉ PERMANENT DES
RÈGLEMENTS ET DES PROJETS DE LOI
D'INTÉRÊT PRIVÉ**

Mercredi 2 décembre 2009

The committee met at 0902 in room 151.

**FIRE PROTECTION STATUTE LAW
AMENDMENT ACT, 2009**
**LOI DE 2009 MODIFIANT DES LOIS
EN CE QUI A TRAIT À LA PROTECTION
CONTRE L'INCENDIE**

Consideration of Bill 14, An Act to deem that the Building Code and the Fire Code require fire detectors, interconnected fire alarms and non-combustible fire escapes / Projet de loi 14, Loi prévoyant que le code du bâtiment et le code de prévention des incendies sont réputés exiger des détecteurs d'incendie, des systèmes d'alerte d'incendie interconnectés et des sorties de secours incombustibles.

The Vice-Chair (Mr. Paul Miller): I bring this meeting to order. We will be dealing with Bill 14 today and we have a presenter.

THOMAS STEERS

The Vice-Chair (Mr. Paul Miller): Mr. Steers, would you come forward and introduce yourself, please? Mr Steers, you have 10 minutes, and if you want to leave any time for questions within the 10 minutes, that's up to you. Go ahead.

Mr. Thomas Steers: I'd like to thank the committee for allowing me to make this submission. The reason I'm here is that almost 10 years ago my fiancée, Linda Elderkin, died in a fire in Toronto. Another person who lived in the same apartment building, Paul Benson, also died. In the weeks and months after the fire, I sought to find out what happened and why. Both Linda and Paul Benson were relatively young people who had a lot of years of life ahead of them. The question I most wanted to answer was, could their deaths have been prevented?

I spoke with firemen who fought the fire that night, I spoke with people in the building who survived, and I spoke with neighbours who saw what happened. I appealed to the Ontario coroner's office to hold a public inquest into the deaths and what caused them, hoping that more information would come to light and that recommendations would be made that could save lives.

In June 2000, a provincial coroner's inquest was held. The facts that came out were these: At 3 a.m. on January

14, 1999, a fire broke out at 2362 Queen Street East in Toronto. That fire spread quickly. The building was four storeys above the ground, with a basement level. The fire broke out in the third-floor apartment, which was below the one Linda lived in. That night there was panic and confusion, and in that panic and confusion no one activated the manual pull stations that are common in many apartment buildings in this city and province. The woman in whose apartment the fire started awoke, tried to put the fire out, but was unsuccessful. No one in the building pulled the fire alarms. That fact was established by fire marshals who investigated the case.

The occupants of the building fled. By the time some of the residents knew there was a fire, the alarm was triggered, not by anyone pulling the manual alarm but because it had become so hot in the hallways that the wires actually melted in the alarm system, and that set it off. By then it was too late.

By that time Linda was aware of the fire, but the fire escape in the rear of the building, which was made of wood, was already in flames. The firemen who responded told the inquest that when they arrived, they could not get up the fire escape because it was on fire. They could hear people on the top floor screaming to be saved. Firemen who testified at the inquest said if there was ever a hell on earth, that's what the interior of Linda's apartment would have been like.

The firemen very bravely tried to get to the top floor of the building using the front staircase, but it was also in flames. Fires spread quickly. The heat from the fire was so intense that some of the visors of fire personnel melted, and they were burned through the thick gauntlets they wore on their hands. Fire personnel said at the inquest that no one should have died in that fire. Rank-and-file firemen told me that; fire chiefs told me that.

The Ontario coroner's inquest came out with 28 recommendations on June 29, 2000. A number of the recommendations were directed to the Ontario government. There were two key recommendations that have not been acted on, and that's why I'm here this morning: to try and convince you that the provisions in Bill 14 can and will save lives.

The first provision is that interconnected fire alarms should be made mandatory in rental buildings, and the second is that fire escapes must be made of non-flammable materials—no more wooden fire escapes. It's

that straightforward. The recommendations come out of what happened that night and so many other instances of fire. People panic, and in the middle of the night they're asleep. An interconnected fire alarm would notify all residents in a building when there was a fire or when there was smoke.

Bill 14 simply asks that an interconnected fire alarm be mandatory in common areas of multi-unit buildings, even in smaller apartment buildings like the one Linda lived in. The sensors would be in the common areas, not in each apartment where they might be set off by cooking. The logic here is that by the time smoke spills out into a hallway, into the common areas, and activates the fire alarm, it will set off the fire alarms in other common areas throughout the building so people will know there's a fire. This would have saved Linda's life. This would save other lives as well. It would not cost a lot of money, and a number of experts have told me that. For those who are concerned about costs, the cost of a fire is far higher. For those who think in terms of lives, there is no price. There is no amount of money that will bring someone back.

The second issue that Bill 14 addresses comes directly out of the coroner's inquest, and it involves wooden fire escapes. Linda and Paul Benson knew about the fire and wanted to get out, but they couldn't because the fire escape was completely engulfed in flames. The last 10 years have taught me that no one can consciously defend wooden or combustible fire escapes. Professional firefighters and their chiefs say it is clear: Fire escapes should be made of non-combustible material regardless of the construction of the building.

One of the firefighters who was at the fire that night and who tried with others to save Linda is Scott Marks. He is presently the president of the Toronto Professional Fire Fighters' Association. He has talked about the sinking, horrible feeling of firefighters who wanted to do their duty and save lives but couldn't because the fire escape, made of wood, in compliance with the current laws in our province, was itself on fire, and he had to watch two people die on the scene who could have and would have been rescued had the fire escape been made of non-combustible material.

I'm here this morning to personally ask you to not let this become a partisan issue. I'm here because someone I loved died needlessly, and it could have been prevented, and future deaths can be prevented, not only of the residents of buildings but perhaps of firefighters who are trying to save them as well. My hope is that no one else will have to go through what I did and what the family of Paul Benson did, that no one else will have to suffer and die like Linda and Paul did.

On that night 10 years ago, so little could have meant so much. With the provisions of this bill, those deaths could have been prevented and others can still be prevented. I urge you as sincerely as I can to support the bill.

The Vice-Chair (Mr. Paul Miller): Thank you. We have two minutes left. Any comments from the government?

Seeing none, Mr. Prue, do you have any comments?

Mr. Michael Prue: Yes, if I can. Mr. Steers came to see me shortly after my election to this House in 2001 and asked me to try to do something about this. It has taken a long time—this is the second time it has gone through this committee—and he's never wavered. Every time I read about this, I get choked up, but he has never wavered.

0910

I would ask the members of the committee to think about what happened to his fiancée, to think about what he said here today. I'd ask the committee again to support the recommendations when we get to clause-by-clause. I know you're going to hear from some fire chiefs as well about how this is going to save lives.

I just want to thank Mr. Steers for the past 10 years and everything he has tried to do—from going through the coroner's office, to coming to see me, to being before parliamentary committees and everything else—to change what I think is fairly sensible. Most people, if you ask them about wooden fire escapes, just look at it and see how really ludicrous that is.

I don't know if you want to add anything else, Mr. Steers.

The Vice-Chair (Mr. Paul Miller): Actually, we're out of time.

Mr. Michael Prue: Okay. I took the whole two minutes.

The Vice-Chair (Mr. Paul Miller): Thank you, Mr. Steers.

ONTARIO ASSOCIATION OF FIRE CHIEFS

The Vice-Chair (Mr. Paul Miller): Our next presenters are two members of the Ontario Association of Fire Chiefs: Tim Beckett, first vice-president, and Jim Jessop, assistant chief. Welcome, gentlemen. Could you state your names for the purposes of Hansard, please?

Mr. Tim Beckett: My name is Tim Beckett. I'm first vice-president of OAFC and fire chief for the city of Kitchener.

Mr. Jim Jessop: My name is Jim Jessop. I'm a member of the OAFC fire prevention committee and deputy chief for the Niagara Falls fire department.

Mr. Tim Beckett: We are honoured to be here today to speak in support of the principle of Bill 14. This is our second opportunity to speak in favour and support of the bill; our first was back in 2006. The OAFC is supportive of the intent in which it is designed to improve public and life safety, although we would like to see some added changes to increase public fire life safety through the addition of sprinklers. We see these as more added improvements to save lives out there in Ontario.

The OAFC, though, has concerns over some of the wording in the bill. We have Jim with us today to speak to the technical aspects, and we'll address the committee with our concerns and recommendations to further improve the bill.

Mr. Jim Jessop: Upon review of the bill, going line by line through the Ontario building code and the Ontario

fire code, which, as Chief Beckett has stated, we support in principle, a few recommendations that would come forward from us that would make the application of this bill for the fire prevention officers, building inspectors and plans reviewers who will be required to enforce it would be requested—minor changes that basically focus on the definitions or terms or defined terms in the regulations that are going to be required to be changed.

Recommendation in the Building Code Act under (2.0.1) for fire alarms: The terms “fire alarm,” “fire detector” and “fire systems” have been used interchangeably through both the Building Code Act and the Fire Protection and Prevention Act. The first recommendation to the committee would be that, based on the proposed wording, the fire detector and fire alarm used in (2.0.1)(b) be replaced by the defined term “smoke alarm.” A smoke detector is part of a larger fire alarm system. So if the intent we have read into it is to have interconnected smoke alarms in public corridors and common hallways and, we would also recommend, stairwells, the term “smoke detector” be replaced with the term “smoke alarm.” It achieves the same intent of early warning; it would provide the same audibility. The problem with the term “smoke detector” is that it is part of a larger system that is not technically required for these types of buildings.

That would be the first recommendation out of the Building Code Act; again, that smoke alarms be installed in public corridors, common areas and stairwells, and smoke alarms be interconnected such that the activation of a smoke alarm in a stairwell, common or public area of a building will sound an alarm that is audible throughout the building.

The Vice-Chair (Mr. Paul Miller): Just to interject, if you want to get it all in, you'd better pick up the pace.

Mr. Jim Jessop: Yes, sir. I'm going to move fast.

The Vice-Chair (Mr. Paul Miller): You're going to have to talk faster.

Mr. Jim Jessop: Okay. Thank you, sir.

There are no technical issues with the fire escape.

Now, with the Fire Protection and Prevention Act, it is a little more complicated, because the fire code is divided into three sections that this bill will affect; they're called retrofit sections. Sections 9.5, 9.6 and 9.8 would all be affected by this bill, because they all include more than two residential units.

Again, getting right to the recommendations without the history:

(1) That smoke alarms be installed in public corridors, common areas and stairwells and smoke alarms be interconnected such that the activation of a smoke alarm in a stairwell, common or public area of a building will sound an alarm that is audible throughout the building in buildings regulated under section 9.8 of the fire code. That will address two-unit residential.

(2) That smoke detectors be installed in public corridors, common areas and stairwells in buildings regulated under section 9.6 of the fire code. The reason for the term

“smoke detector” is that buildings under section 9.6 require fire alarm systems.

(3) That clause 9.5.4.1(3) of the Ontario fire code be deleted. This amendment will attain the desired outcome of ensuring that early warning is provided to those residents in these specific buildings prior to the means of egress becoming untenable.

These are the recommendations that have been reviewed by the OAFC fire prevention committee, barring any questions.

The Vice-Chair (Mr. Paul Miller): Well, that was fast. That alarm went off quickly.

We have a couple of minutes left. Are there any questions from the government side?

Mr. Mario Sergio: Mr. Craitor first.

Mr. Kim Craitor: Thanks very much, Jim. It's nice to see you here. I'm used to seeing you in Niagara Falls as our fire chief.

It's not quite related to what we're talking about, but I just want to share with the committee the expertise that Jim brings to this table and why I'm going to be supporting what he is proposing.

Jim Jessop was involved with our fire chief, who is now the Ontario fire marshal, in developing a plan that is implemented across all of Ontario for dealing with grow ops and grow op homes. We had unfortunate situations where grow op homes were found and the owners put them back on the market without properly ensuring that they were safe. People and families were moving into these grow op homes and finding themselves in a state of danger for their health. We learned as well, thanks to Jim and his work, that it's a danger for firefighters or any emergency officers going into these homes. Now there's special equipment they wear and breathing masks.

I just wanted to put that on the record and say thanks for taking the time to come up here and share your expertise with us.

The Vice-Chair (Mr. Paul Miller): Mr. Sergio.

Mr. Mario Sergio: I appreciate your presence here this morning, but I have to say you've really confused me. If we are to follow your recommendations, then we might as well have a brand new bill drafted. You've got so much in your presentation here—changes to the building code, changes to the fire code, what's an alarm, what's the other system—that we might as well change the way the entire bill has been written.

My question to you—it's a good intent, absolutely, but I have a problem with the words “interconnected smoke alarms.” The sound will be heard from an abutting unit or unit above or below. How would this affect two units side by side?

Mr. Jim Jessop: The intent of our recommendations is, again, not to have smoke alarms interconnected in the actual suites. We do not want smoke alarms going off every time somebody burns toast. The smoke alarms interconnected in the stairwells, common areas and public corridors would be outside the suite doors. So if smoke activates the smoke alarm outside your door, it would also warn me that the stairwell could become compromised.

0920

Mr. Mario Sergio: So, no other units could be affected?

Mr. Jim Jessop: No, it would only be in stairwells, common areas or public corridors. We would not support having every smoke alarm in individual suites activated.

Mr. Mario Sergio: I see. I had another question. I don't know if I have time—

The Vice-Chair (Mr. Paul Miller): Okay. Are you done?

Mr. Mario Sergio: I'll make—

The Vice-Chair (Mr. Paul Miller): Okay. Mr. Prue.

Mr. Michael Prue: Just to assuage the fears of Mr. Sergio, that is in fact the intent of the bill: not to have it interconnected between units, for precisely the reason the fire people say.

Mr. Mario Sergio: It doesn't say that in the bill.

Mr. Michael Prue: No, it does say that in the bill. It's interconnected not between the units, but interconnected in the common areas. That's the intent of the bill. That's always been the intent of the bill. We don't want fire alarms going off when people burn toast because then people will not pay any attention to them.

Mr. Sergio is right—I mean, this bill has been a long time. This is the second time it has made its way all the way through to committee, and this is the first we've heard of the changes you are proposing. We only have an hour to do that. Can you give the changes to our legislative counsel and our legislative researcher? Perhaps we can try to have those here for this afternoon and to incorporate them, if possible. I don't want to have the bill not go forward within that hour, but if we can do as much as what you are saying within the hour, I'm willing to give it a try.

The Vice-Chair (Mr. Paul Miller): Mr. Prue, I think that this is not too much. It would be okay to put it in for this afternoon, as far as I'm concerned.

Mr. Michael Prue: But we also need the appropriate motions. To the legislative counsel: Can that be done?

Ms. Catherine Oh: We'll have to talk about it. There's some issue with this, because the amendments that you propose would amend the fire code and the building code, which are regulations, whereas these are acts. Bills generally amend acts. They don't amend regulations. We have to come up with a different approach than is used in most bills, so that might be a bit of a difficulty.

Mr. Michael Prue: But it will not be difficult to simply change the words "smoke detectors" from "fire detectors."

Ms. Catherine Oh: Some of these amendments would be very simple to do. The ones to the Fire Protection and Prevention Act might be a little bit more complicated, so we'll have to talk about that.

Mr. Mario Sergio: I just have a question for legal counsel, since she has brought up the concern of the two building codes and the fire department. What has to be done to change the building act, if you will, and the building code? What's required? What's necessary? Which one is easier?

Ms. Catherine Oh: It's just that it's not normally done, for a bill to amend a regulation directly. What would more normally happen is that a regulation amendment would be done through the regulation-making channels. In order for a bill to amend a regulation, it would more likely have language that would simply override the regulation, the way we've tried to do in this bill, rather than specifically saying, "This section of the regulation is amended by saying X." This is not normally something we do, so I need to go back to my office and talk to my senior counsel there about whether this can even be done.

Mr. Mario Sergio: Are you saying then, counsel, that we the committee, our recommendations, do not have any power to change the regulations or the act?

The Vice-Chair (Mr. Paul Miller): I don't think that's what she's saying.

Ms. Catherine Oh: No, I'm not saying there is no power to do that. I believe a bill can change a regulation. It's just a matter of how we go about doing it and the specific language.

The Vice-Chair (Mr. Paul Miller): We'll clarify this in the recess and we'll move on, and this afternoon maybe we can come back with some answers. We don't want to hold it up if it's a good bill.

One comment from the presenters?

Mr. Mike Colle: Mr. Chairman, you can't comment on whether it's a good bill. That's not what—

The Vice-Chair (Mr. Paul Miller): Oh, I'm sorry, Mr. Colle. The human factor came out.

Mr. Tim Beckett: Mr. Chair, Jim and I will make ourselves available for this morning if your legal counsel requires some clarification in our presentation.

The Vice-Chair (Mr. Paul Miller): Thank you, gentlemen.

Okay, last one, Mr. Ruprecht.

Mr. Tony Ruprecht: In terms of interconnected fire systems, could you tell me what's on the books now? I assumed that that was already done.

Mr. Jim Jessop: In response to the member's question, again, it's a complicated answer. It depends on the height of the building, the number of people who are sleeping in a building and how many suites share a common exit. But in answer to your question, in buildings that have two units or less, they are not required to be installed in common areas. In buildings that are up to and including six storeys that have residential units, they are not required in the hallways, stairwells or common areas unless there are more than 24 people sleeping or more than four apartments share a common exit, and they are not required under retrofit of buildings exceeding six stories. Theoretically, you could have a heat detector which does not activate until the temperature of that hallway exceeds 185 degrees to set off the alarm system. It's a bit of a complicated issue. In answer to your question, no, they're not.

Mr. Mike Colle: On a point of order: I'd like to extend the time for some questions for the presenters because there are some really interesting proposals put

forward. I think we should make sure we get this right. I just want to extend for 10 minutes.

The Vice-Chair (Mr. Paul Miller): Mr. Colle, that's not a point of order. If you want to vote on it—

Mr. Mike Colle: I want to move unanimous consent that we extend for 10 minutes.

The Vice-Chair (Mr. Paul Miller): Well, you'd have to have a motion.

Mr. Mike Colle: I move we extend the questioning of the expert presenters for 10 minutes, so we can just clarify some technical aspects.

The Vice-Chair (Mr. Paul Miller): Any debate on this motion?

Mr. Mike Colle: I have a question.

The Vice-Chair (Mr. Paul Miller): One at a time, please. So we all agree on the motion for 10 minutes to be extended. Agreed? Agreed.

Okay, one more question, Mr. Colle. Then, Mr. Craitor and Mr. Balkissoon.

Mr. Mike Colle: Thank you very much. It is very valuable to have you here. I'm glad you came because we just want to try to ensure we break this down into doable pieces. I'm just ensuring that what you're proposing as amendments fit in with the intent of the bill. That's what I'm just trying to see. One of the points of contention is the interconnectivity of fire alarms or detectors. Could you explain that to me again, just so I understand that?

Mr. Jim Jessop: Certainly. Upon review of the bill, we agree that the intent certainly does not appear to be having alarms going off in rooms. That's not the intent that we have read in the bill, and that's not something that the OAFC would support.

We do fully support having smoke alarms and smoke detectors, depending on the requirements of the size of the building, installed in stairwells, common areas and public corridors, such that if a smoke detector in the stairwell of the, for example, fourth floor activated, all of the smoke detectors in the stairwells, common areas and corridors would activate so that all residents of the building would be aware at the earliest stages of a fire that they had to leave.

Currently, the retrofit sections of the fire code do not require replacing what they term "heat detectors" in stairwells and in common areas that were installed prior to the requirements to be replaced. There are situations out there that I have personally seen and dealt with where a heat detector, for example, may be installed in the top of a stairwell. For that heat detector to activate, that temperature in the stairwell has to reach such a temperature that nobody in this room would survive. It would be untenable.

What we agree with is that if the smoke detector is in the stairwell, that will activate at a much earlier stage and provide all of the building occupants plenty of time to exit safely. The interconnectivity, sir, is for the common areas and stairwells, not between Mr. Beckett's apartment and my apartment.

Mr. Mike Colle: Within the common areas, the inter-connectivity?

Mr. Jim Jessop: Correct.

Mr. Mike Colle: So the amendment you're making there doesn't contravene the intent of the bill; it just, essentially, clarifies some of the practical aspects of making the system work?

Mr. Jim Jessop: That's correct. The biggest amendments that we have suggested, respectfully, have more to do with defining terms that exist within the legislation that we are going to be required to enforce of "smoke alarm" as a "fire alarm." For example, "fire alarm" is not a defined term in either piece of legislation, so if that was to be put through, we would have a very difficult time enforcing the bill out there. But the intent of the inter-connectivity is certainly the same.

0930

Mr. Mike Colle: Okay. Thank you.

The Vice-Chair (Mr. Paul Miller): Mr. Craitor.

Mr. Kim Craitor: Just a short comment for the benefit of the committee. First, to the two fire chiefs, thank you so much. Jim, we have spent hours and hours together. The bottom line is, and this is just me speaking as a member, let's not get caught up in everything. You've got some great suggestions. I know you so well.

We had a major fire in Niagara Falls at a seniors' home. Thank God nobody got killed, but Cavendish Manor had no fire alarm system. Michael, I know how emotional you get over this. I think we all do. I remember going out to that building and thinking of the people inside that building that I personally knew who were seniors. I would go out there for their spaghetti dinners. We all do those kinds of things, and I was thinking, we ought to change this. So I just want to put it on the record. I don't really care how we do it; let's just do it.

The Vice-Chair (Mr. Paul Miller): Thank you, Mr. Craitor. Mr. Balkissoon.

Mr. Bas Balkissoon: I just have a quick question for Jim—and, Jim, thanks for coming. I've had the opportunity to work with him. He's one of the few people in the fire department who have had extensive training with the building code. He's very familiar with that—you nod.

I just want to clarify something. Here in Toronto we have a lot of homes with two units, but they don't share common areas extensively. They might just share a front foyer. How does this affect those kinds of buildings?

Mr. Jim Jessop: That's a good question, Mr. Balkissoon, and that's something that, when we were reviewing, we were considering. The intent of the bill, from the way we have read it—there may be situations, when you just have two units, where there is no common stairway or common hallway. Maybe I enter through the back door and Mr. Beckett enters through the side door. This bill would not require interconnected smoke alarms, because there are no common areas, so that certainly could be the case.

Right now, the types of buildings you're referring to fall under the retrofit provisions of section 9.8 of the fire code. I can tell you, upon reviewing that section prior to respectfully submitting this submission, if there are two-unit buildings in Toronto or in any other municipality

that do have a common exit stairway, at this point they are not required to have interconnected smoke alarms in the common areas.

The Vice-Chair (Mr. Paul Miller): Okay, thank you. We'll have just one more question from the government side. I've got four minutes left and I'm going to allow the opposition to have a couple of minutes. Last question from the government side, Mr. Ruprecht.

Mr. Tony Ruprecht: I'm looking at Mr. Steers's submission, and he indicates, as have many others in the same position, that the fire broke out on the third floor and there was no signal emitted. I'm not sure what you can do about this, but I think the first safety issue for tenants in a building—it doesn't matter whether it's one unit, two units, three units—is the smoke alarm system.

The reason you will find that there are many submissions of this nature is because the person in whose unit you have a smoke detector would either take tape and cover up the parts so that smoke is not detected—this is very important, Mr. Chair—or secondly, take out the battery. That's the first issue. You're talking about burning toast. I understand that part of it. But while we're doing all of this, isn't it important, or even most important, that the first part, where someone can detect fire or smoke, is being taken care of?

I don't know how this will all fit in here, but I would think that somehow you could also make a recommendation to the manufacturer that some of these systems are simply too sensitive and they are taken out. I don't know, Mr. Chair, but I think that would be a great idea.

The Vice-Chair (Mr. Paul Miller): Mr. Ruprecht, that's actually a good question, but it's more of a technical question between the manufacturer and—the fire department only enforces the rules at hand. That would be a good suggestion.

Mr. Martiniuk, do you have any questions?

Mr. Gerry Martiniuk: No, thank you.

The Vice-Chair (Mr. Paul Miller): Mr. Prue.

Mr. Michael Prue: The recommendations that are contained in here came almost word for word from the inquest. The recommendations you are making: This is due to the change in technology over the last 10 or 11 years since the inquest? To talk about smoke detectors versus heat detectors, to talk about all the things you're saying, it's because technology has moved on since the inquest?

Mr. Jim Jessop: Yes, Mr. Prue. The recommendations that we have brought forward are because the Ontario fire code, not the act, has been amended since the inquest. Terms and definitions have been changed; requirements have been changed. I can cite it in my submissions, in 1.2, fire escapes, that in 2007, for example, for buildings that would have included the Queen Street building—as I stated, I recall that because I was a firefighter at that night—the fire code has been amended now to even further protect fire escapes, requiring fire-rated glass and steel doors that will come down if a fire is activated. So the submissions that we

have respectfully submitted are because the fire code has been amended at least once since the original inquest. Most importantly, it will allow us to apply your bill as assistants to the fire marshal.

Mr. Michael Prue: In terms of the interconnectedness—and I do hear that there is a little bit of concern on the other side about the interconnectedness—this is to put it in the common areas so that people throughout will be able to hear it. You were a firefighter there on Queen Street 11 years ago. Would such a system have worked in that building at that time, as you are proposing and as this bill proposes? Would it have saved those two lives?

Mr. Jim Jessop: As someone who was actually there that night and who witnessed that, yes, it would have. With early warning, the occupants would have known there was a fire. They would have been able to safely escape in a quicker time before the exits and everything caught fire. Yes.

Mr. Michael Prue: Thank you, Mr. Chair. Oh, I think there's a second comment.

Mr. Tim Beckett: I just want to clarify—

The Vice-Chair (Mr. Paul Miller): Closing comment.

Mr. Tim Beckett: Okay, thank you. I just want to clarify that we're not looking to compound the situation here. We are in support of the intent of the bill. What we're trying to do is just clarify some wording so that when we have to apply it in the field, we have cleared up all the confusion that may happen with some of the tenants out there.

The Vice-Chair (Mr. Paul Miller): Thank you, gentlemen.

Mr. Michael Prue: I appreciate it. Thank you.

The Vice-Chair (Mr. Paul Miller): I guess now, obviously, we're going to have some corrections or some inquiries done, so I'm assuming that clause-by-clause will be done at 12 o'clock.

Interjection.

The Vice-Chair (Mr. Paul Miller): And does the committee want to look at the draft report on regulations or no?

Mr. Mike Colle: When would we look at that?

The Vice-Chair (Mr. Paul Miller): Well, it's been sent to your offices. Do you want to deal with it now or later?

Mr. Mike Colle: We can deal with it later, I think.

Mr. Bas Balkissoon: Deal with it later with the changes.

The Vice-Chair (Mr. Paul Miller): No, no.

Mr. Bas Balkissoon: There's no changes?

The Vice-Chair (Mr. Paul Miller): The draft report on regulations.

Mr. Bas Balkissoon: Oh, okay, that one.

The Vice-Chair (Mr. Paul Miller): You could probably read that at your own convenience, I would think.

Okay. Seeing no further business—

Mr. Mike Colle: Excuse me, Mr. Chair, but isn't there going to be a discussion with legal counsel to work out that problem about—

The Vice-Chair (Mr. Paul Miller): Yes, during the adjournment. So are we asking for adjournment, then?

Mr. Michael Prue: For 12 o'clock.

Mr. Mike Colle: Yes. I move adjournment.

The Vice-Chair (Mr. Paul Miller): We'll recess until 12 o'clock. Thank you.

The committee recessed from 0938 to 1208.

The Vice-Chair (Mr. Paul Miller): This meeting is now called. Would the government member please take his chair?

Mr. Kim Craitor: I have to go back for the vote.

The Vice-Chair (Mr. Paul Miller): Mr. Prue, you have the floor. Section 1.

Mr. Michael Prue: I have an amendment here to section 1 of the bill. I move that subsection 34(2.0.1) of the Building Code Act, 1992, as set out in section 1 of the bill, be struck out and the following substituted:

“Same—smoke alarms

“(2.0.1) Regulations made under subsections (1) and (2) are deemed to require that every residential building in which there are two or more dwelling units be equipped with,

“(a) smoke alarms installed in all public corridors, common areas and stairwells of the building; and

“(b) smoke alarms interconnected such that the activation of a smoke alarm in a public corridor, common area or stairwell of the building will sound an alarm that is audible throughout the building.”

The Vice-Chair (Mr. Paul Miller): Is there any discussion? Make it brief, I would suggest, Mr. Prue.

Mr. Michael Prue: No, no. I don't have discussion. I'm just voting yes.

The Clerk pro tem (Mr. Trevor Day): You have to give the members an opportunity to vote.

The Vice-Chair (Mr. Paul Miller): I have to give them an opportunity to vote?

The Clerk pro tem (Mr. Trevor Day): Even if they don't want to, we have to recess to give them an opportunity to vote.

Mr. Michael Prue: Should we go to the next one?

The Clerk pro tem (Mr. Trevor Day): We have to have a recess to give any member an opportunity to vote. So we're going to have to recess.

Mr. Michael Prue: For how long?

The Clerk pro tem (Mr. Trevor Day): Until the vote's over.

Mr. Michael Prue: Then there's another one.

The Vice-Chair (Mr. Paul Miller): You mean he can't vote by himself?

The Clerk pro tem (Mr. Trevor Day): No, I mean an opportunity to vote in the House. There's a vote in the House right now. The committee has to stop in order to give every member an opportunity to vote in the House. You need to recess until the end of the vote.

The Vice-Chair (Mr. Paul Miller): We're recessed.

The committee recessed from 1209 to 1214.

The Vice-Chair (Mr. Paul Miller): Okay, we're back in session. Mr. Prue, you have the floor. Section 1.

Interjection.

The Vice-Chair (Mr. Paul Miller): No further debate? All in favour? Carried.

Mr. Michael Prue: Shall section 1 carry?

Interjection: No.

Mr. Michael Prue: No?

The Vice-Chair (Mr. Paul Miller): Section 3—

The Clerk of the Committee (Mr. Trevor Day): No, sorry. That says to “enact section 1, as amended. Any debate?”

The Vice-Chair (Mr. Paul Miller): Any debate on section 1, as amended? Shall it carry? Carried.

Section 2: amendment number 2.

Mr. Michael Prue: I move that subsection 12(1.1) of the Fire Protection and Prevention Act, 1997, as set out in section 2 of the bill, be struck out and the following substituted:

“Same—smoke alarms and detectors re buildings under s. 9.5 of the fire code

“(1) Regulations made under subsection (1) are deemed to require that,

“(a) if a fire alarm is required in a building regulated under section 9.5 of Ontario regulation 213/07 (fire code) made under this act, the building be equipped with smoke detectors in all public corridors, common areas and stairwells of the building; and

“(b) if a fire alarm is not required in a building regulated under section 9.5 of Ontario regulation 213/07 (fire code) made under this act, the building be equipped with smoke alarms interconnected such that the activation of a smoke alarm in a public corridor, common area or stairwell of the building will sound an alarm that is audible throughout the building.

“Same—smoke detectors re buildings under s. 9.6 of the fire code

“(1.1.1) Regulations made under subsection (1) are deemed to require that every residential building regulated under section 9.6 of Ontario regulation 213/07 (fire code) made under this act, that is in existence on a day to be specified by regulation, be equipped with,

“(a) smoke detectors installed in all public corridors, common areas and stairwells of the building; and

“(b) smoke detectors interconnected such that the activation of a smoke detector in a public corridor, common area or stairwell of the building will sound an alarm that is audible throughout the building.

“Same—smoke alarms re buildings under s. 9.8 of the fire code

“(1.1.2) Regulations made under subsection (1) are deemed to require that every residential building regulated under section 9.8 of Ontario regulation 213/07 (fire code) made under this act, that is in existence on a day to be specified by regulation, be equipped with,

“(a) smoke alarms installed in all public corridors, common areas and stairwells of the building; and

“(b) smoke alarms interconnected such that the activation of a smoke alarm in a public corridor, common area or stairwell of the building will sound an alarm that is audible throughout the building.”

I have no comments.

The Vice-Chair (Mr. Paul Miller): Any discussion or questions? Seeing none, all in favour? Carried.

We'll now have a recess for the vote.

The committee recessed from 1217 to 1222.

The Vice-Chair (Mr. Paul Miller): The committee is now reconvened.

Any debate on section 2, as amended? Seeing none, all in favour? Opposed? Carried.

The amendment on section 3, Mr. Prue.

Mr. Michael Prue: I withdraw the amendment.

The Vice-Chair (Mr. Paul Miller): That's fine. There's an amendment on section number 3.

Mr. Michael Prue: Oh, yes, the next one. I withdraw number 3.

I move that the French version of section 3 of the bill be struck out and the following substituted:

"Entrée en vigueur

"3. La présente loi entre en vigueur six mois après le jour où elle reçoit la sanction royale."

The Vice-Chair (Mr. Paul Miller): Any discussion on this amendment? Seeing none, all in favour? Opposed? Carried.

Shall section 3, as amended, carry? Carried.

Any debate on section 4? Seeing none, carried.

We have an amendment to the title of the bill.

Mr. Michael Prue: I move that the long title of the bill be struck out and the following substituted:

"An Act to deem that the Building Code and the Fire Code require interconnected smoke alarms and smoke detectors and non-combustible fire escapes."

The Vice-Chair (Mr. Paul Miller): Any discussion? Seeing none, all in favour? Opposed? Carried.

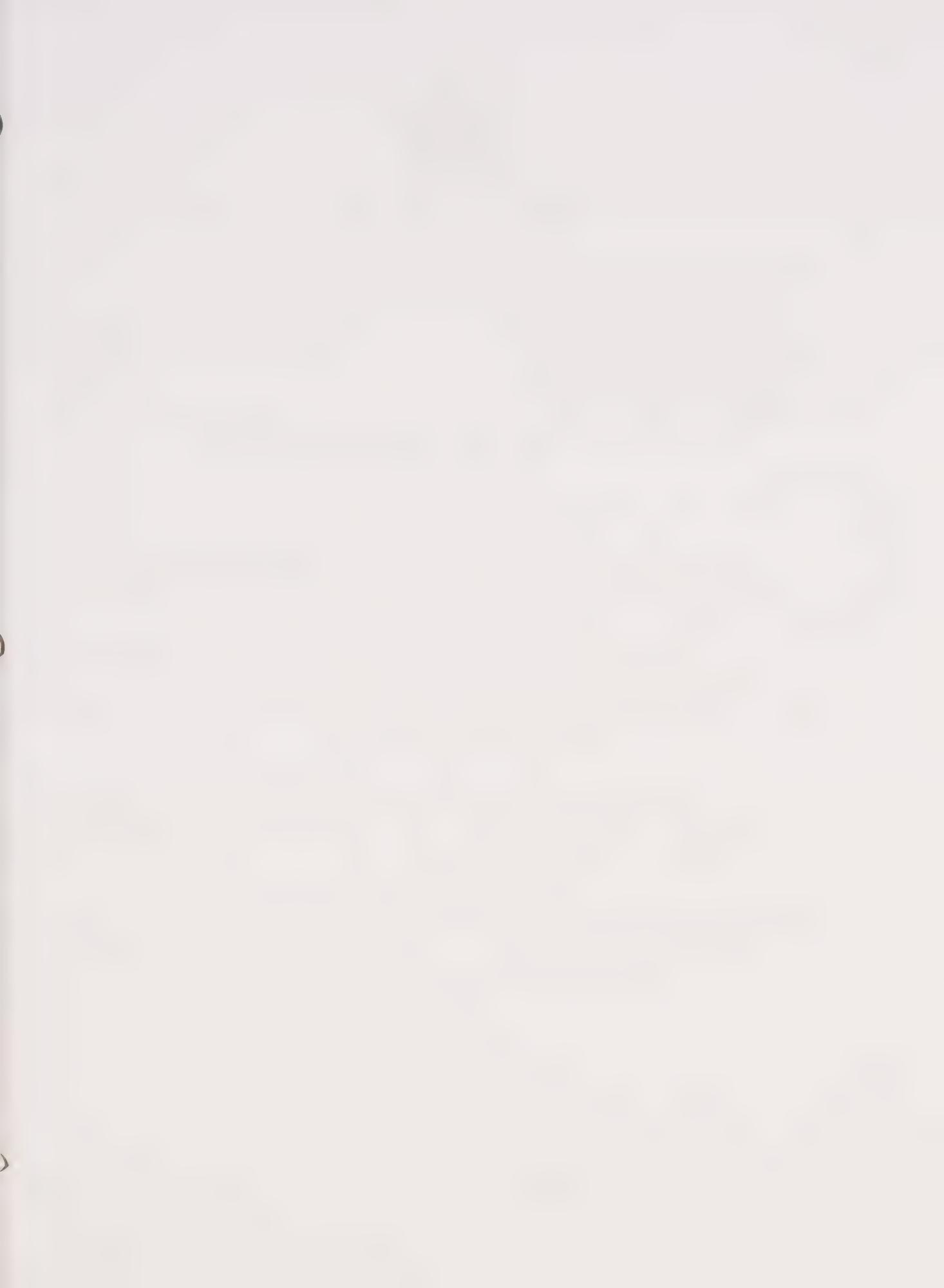
Shall the title, as amended, carry? Carried.

Shall the bill, as amended, carry? Carried.

Shall I report the bill, as amended, to the House? Carried.

All business is finished. We're now adjourned.

The committee adjourned at 1224.



CONTENTS

Wednesday 2 December 2009

Fire Protection Statute Law Amendment Act, 2009, Bill 14, <i>Mr. Prue / Loi de 2009 modifiant des lois en ce qui a trait à la protection contre l'incendie, projet de loi 14, M. Prue</i>	T-119
Mr. Thomas Steers	T-119
Ontario Association of Fire Chiefs.....	T-120
Mr. Tim Beckett; Mr. Jim Jessop	

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ISSN 1180-4319

Legislative Assembly of Ontario

First Session, 39th Parliament

Official Report of Debates (Hansard)

Wednesday 9 December 2009

Standing Committee on Regulations and Private Bills

Liquor Licence Amendment Act
(Fruit Wine), 2009

Assemblée législative de l'Ontario

Première session, 39^e législature

Journal des débats (Hansard)

Mercredi 9 décembre 2009

Comité permanent des règlements et des projets de loi d'intérêt privé

Loi de 2009 modifiant la Loi
sur les permis d'alcool
(vin de fruits)

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Clerk pro tem: Trevor Day

Président : Michael Prue
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Telephone 416-325-7400; fax 416-325-7430

Published by the Legislative Assembly of Ontario



Service du Journal des débats et d'interprétation

Salle 500, aile ouest, Édifice du Parlement

111, rue Wellesley ouest, Queen's Park

Téléphone, 416-325-7400; télécopieur, 416-325-7430

Publié par l'Assemblée législative de l'Ontario

LEGISLATIVE ASSEMBLY OF ONTARIO

**STANDING COMMITTEE
ON REGULATIONS
AND PRIVATE BILLS**

Wednesday 9 December 2009

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

**COMITÉ PERMANENT DES
RÈGLEMENTS ET DES PROJETS DE LOI
D'INTÉRÊT PRIVÉ**

Mercredi 9 décembre 2009

The committee met at 0901 in room 151.

**LIQUOR LICENCE AMENDMENT ACT
(FRUIT WINE), 2009**
**LOI DE 2009 MODIFIANT LA LOI
SUR LES PERMIS D'ALCOOL
(VIN DE FRUITS)**

Consideration of Bill 132, An Act to amend the Liquor Licence Act / Projet de loi 132, Loi modifiant la Loi sur les permis d'alcool.

The Chair (Mr. Michael Prue): We'll call the meeting to order. This is a meeting on Bill 132, An Act to amend the Liquor Licence Act. By the resolution of the House, we have the morning set aside to hear deputations. Deputations will take place until 10 o'clock, approximately, or perhaps a little later. We anticipate that there will be bells rung this morning for votes, so we are going to have to, at some point, break the meeting to allow members to go upstairs and vote and immediately return to resume the deputations if, in fact, they're proceeding.

I want to caution the members as well: By resolution of the House, we will resume at 12 o'clock for the purpose of clause-by-clause. We have no choice but to be here. I know there was some confusion last week. We have exactly one hour set by the House to deal with the bills, and we will be back. Whether there are any bills being debated at that point, whether there are any red mitten photos, we will be here. Just so that everybody knows, we will be proceeding.

Mr. Tony Ruprecht: On a point of order: In cases of votes in the House, I would hope that, not like the last meeting, you would be kind enough to postpone this meeting and let all of us go upstairs and vote.

The Chair (Mr. Michael Prue): There were recesses taken as each vote was called, and we waited until the vote was over. We had to proceed. We did so on strict instructions from the clerk's office. It will be done that way again, but I'm cautioning people that we will be proceeding at 12 o'clock until 1 o'clock. Food will be brought in. We will be here.

Mr. Tony Ruprecht: In that case, Mr. Chair, I'm asking for unanimous consent, if there's a vote in the House, that we postpone the meeting until the vote is taken, and then we come back.

The Chair (Mr. Michael Prue): I can't accept that. We have to follow the rules set out by the House. The House says that we "shall" meet—we "shall," not we "may"—from 12 o'clock to 1 o'clock. If there are any votes, then we will recess for those votes, but they are recesses; you have to resume. You have to come back. If there are five minutes between, the committee must proceed.

Mr. Tony Ruprecht: I understand, Mr. Chair, but I've asked for unanimous consent, now, if there's a vote in the House, that you postpone this meeting until we vote and come back for five minutes.

The Chair (Mr. Michael Prue): That is precisely what we are going to be doing, and I cannot do anything contrary to what the House has said. The members full well know this is a motion of the House to which we are bound. Okay? Everybody understands that? We will be proceeding at 12 o'clock. If the bells ring, we will recess, but if there's any other event—I know there's a reception from the Salvation Army that I would like to attend, but I will not be there. There will be the red mitten photo on the front lawn. But at 12 o'clock, we will be proceeding. Does everyone understand? Okay.

**ONTARIO FEDERATION
OF AGRICULTURE**

The Chair (Mr. Michael Prue): We have six listed deputations. The first one is the Ontario Federation of Agriculture. I have listed here Peter Lambrick and David Armitage. If they are present, they would come forward and introduce themselves so Hansard knows which one of them is which.

You have 10 minutes in which to make your delegation. If you do not use the full time, we will endeavour to split the time equally amongst the three caucuses, but the 10 minutes is entirely yours. Please proceed.

Mr. Peter Lambrick: Thank you, Chair Prue and members of the committee. I am Peter Lambrick, director with the Ontario Federation of Agriculture. I'm lucky to have with me our chief researcher, David Armitage. The Ontario Federation of Agriculture represents the interests of over 38,000 farm families in Ontario.

The OFA resoundingly supports the objects, language and intent of Bill 132, a bill that will provide producers of fruit wines the ability to expand marketing oppor-

tunities for their Ontario-grown and -produced products. Simply put, Bill 132 just makes sense from a market development, rural economic development and tourism development sense. Other competing jurisdictions have recognized these opportunities while Ontario falls behind in not providing for such a market outlet.

Fruit wine production in Ontario is set to capitalize on a growing market. That market is for locally produced products, marketed in smaller quantities in a unique setting. Our consumers increasingly favour locally produced goods but lack the opportunity to access such goods.

Our fruit wineries now have considerable experience in operating on-farm wine outlets. They have demonstrated a clear desire and ability to responsibly provide an opportunity for Ontarians and tourists to sample their locally produced products. There's absolutely no reason to believe an extension of their marketing reach to farmers' markets will result in any negative outcomes whatsoever.

There's no doubt the success of our local grape wine industry has increased the wine sophistication of Ontarians. The relative novelty of fruit wines, from a marketing perspective, requires opportunities for sampling. The LCBO knows this very well, enabling industry representatives to provide sampling at its outlets for wine and liquor products. Denying similar opportunities at farmers' markets, with identical controls, would be inconsistent to say the least.

Providing access to the opportunities presented by the increasing popularity of farmers' markets will yield increased product marketing exposure for fruit wines. This customer contact is simply unavailable to small operations with very limited or non-existent advertising budgets.

Further, availability at markets provides Ontario consumers who either cannot or choose not to drive to the fruit wine producer's location the opportunity to access the product at a more conveniently located market. Bringing the product to the consumer is what Bill 132 is all about.

We know Ontario consumers are keenly interested in sourcing local products and are asking for improved and simpler access to Ontario-produced goods in stores and via the farmers' market option. Bill 132 addresses this demand. Bill 132 provides exactly what our customers are requesting.

There will also be reciprocal benefits to the farmers' markets. The presence of a fruit wine producer will enhance the overall market experience for consumers. We believe this will attract more customers and drive more sales at the markets themselves. This will be of benefit to all market participants.

The OFA strives to develop and secure every possible opportunity to improve Ontario's rural economy through farm-based activities. Bill 132 provides such an opportunity. A recent study indicates Ontario-grown and -processed fruit wine returns more than \$11.50 per litre to the Ontario economy. In contrast, imports only return 67 cents per litre to the Ontario economy.

These increased marketing opportunities and the resulting investment by Ontario consumers in more Ontario products will help drive our rural economy through the wineries' success as well as the increased traffic through our networks of farmers' markets.

The OFA and our commodity organization partners have always applauded the provincial government's continued promotion of local agricultural products. Bill 132 is simply another good idea to help drive demand for a unique local product and, therefore, help drive our rural economy.

Knowing our fruit wineries are experienced and responsible marketers of their product, the OFA can see no downside to Bill 132. It is entirely consistent with opportunities provided by competing jurisdictions and perfectly consistent with other regulations enabling the marketing, with tasting, of wine products.

0910

The OFA therefore urges the committee to move Bill 132 to the Legislature with an overwhelming endorsement for its adoption. We thank you for your time.

The Chair (Mr. Michael Prue): Do you have anything as well? That's the deputation? All right. You've left a lot of time here, approximately a minute and a half per caucus. We'll start with the official opposition.

Mr. Robert W. Runciman: Thank you for being here on such a nasty day. I appreciate it. Just a couple of quick questions.

You talk about other competing jurisdictions. Who are you referring to?

Mr. David Armitage: I think it would mainly be Quebec, in terms of the access that consumers in Quebec have to products similar to this, outside of any—

Mr. Robert W. Runciman: So you're talking about convenience stores and that sort of thing?

Mr. David Armitage: Yes, and farmers' markets.

Mr. Robert W. Runciman: I thought there were a number of other provinces that were engaged in this: Nova Scotia, Alberta—

Mr. David Armitage: Well, there are, but I think we would cite Quebec as a competitive province.

Mr. Robert W. Runciman: You also talk about \$11.50 per litre return. You're contrasting that with the imports. Can you elaborate on that? Why is there such a significant difference in return to the provincial coffers?

Mr. David Armitage: I think that would be reflective of the value chain that's associated with the production and marketing of the product. For any imported product, very little of that is resident within this province, because the fruit that goes into the wine and the processing and marketing of fruit wines covered under this bill are entirely within Ontario. That, I think, accounts for the difference.

The Chair (Mr. Michael Prue): Thank you. Mr. Miller?

Mr. Paul Miller: I just have one question: Has the agricultural society determined what the social impact will be as far as underage drinkers and the control of underage drinkers? There's quite a screening process

they have at the Liquor Control Board of Ontario. There have been problems in Quebec in local markets with underage drinkers, because sometimes the person selling at the market isn't scrutinizing the individuals who are buying it, not asking for ID, things like that. Have you considered that problem?

Mr. Peter Lambrick: I have been given to understand, from those members who are in the fruit wine industry, that they have brought on staff Smart Serve personnel to make certain that this is not a problem.

Mr. Paul Miller: So all markets in Ontario will have Smart Serve personnel selling wine; is that what you're telling me?

Mr. Peter Lambrick: I think, sir, you have to remember that there's not a large number of these wineries, and to protect their own business they have to look after it in a professional manner. I am told by many of them—one who lives very close to me—that they have the personnel to do that.

The Chair (Mr. Michael Prue): Thank you. Next, the government side. Mr. Brown?

Mr. Michael A. Brown: I'm very interested in farmers' markets. They are an important part of my constituency in Algoma-Manitoulin and have been growing quite considerably. Are there any other alcoholic products sold at farmers' markets? I'm thinking, wine is actually a fruit, so can we sell wine at farmers' markets?

Mr. Peter Lambrick: On that particular issue, sir, I am not certain that I can answer that. I am not a person who goes to a farmers' market, so I'm not certain that I can help you out on that.

Ms. Sylvia Jones: Chair, if I can assist?

The Chair (Mr. Michael Prue): If he agrees. This is his minute and a half.

Mr. Michael A. Brown: Secondly, there are other products that we can sell at the farm gate. I'm thinking of eggs, for example. You would not have to have a quota to sell eggs at the farm gate. But a farmer cannot then sell them at a farmers' market. What's the view of the OFA on that particular issue? Should a farmer be able to sell eggs without quota at a farmers' market? I know what my constituents think; we think they should be able to.

Mr. Peter Lambrick: My understanding is that that one, sir, is a health issue, and that is why they are not sold at a farmers' market.

The Chair (Mr. Michael Prue): Okay. That's the entire time. Thank you very much. We have to move right along here.

FRUIT WINES OF ONTARIO

The Chair (Mr. Michael Prue): The next group is Fruit Wines of Ontario. I have Bert Andrews listed.

Mr. Andrews, you have 10 minutes. You can use all of it or you can do as the last group did and leave some time for questioning.

Mr. Bert Andrews: In the 10 minutes, I would welcome a lot of questions, so I will have a relatively short

presentation and then I'm looking forward to questions from any of the folks around the table here.

Good morning, Chair Prue and members of the committee. I particularly welcome Bob Runciman, the sponsor of Bill 132, as he's doing his best to help rural Ontario and economic development. I know there are some members who aren't here yet, including some wineries that want to be here, but because of the weather they haven't made it yet. I hope they do make it. As I say, I'm looking forward to a lot of questions at the end and any concerns anybody would have.

I've sent 10 e-mails to the people on the committee and 43 faxed pages of information. I hope that everybody has received all of that information.

In one of those e-mails, Fruit Wines of Ontario did some rebuttals to the December 11 Hansard report because there was some information given there that really needed to be challenged. I feel I have all the proof and facts that anybody needs to move forward with Bill 132.

Fruit Wines of Ontario requests that all arguments against moving Bill 132 forward to third reading be based on proof and facts, not conjecture and hypothesis. There's really nothing to fear about this particular proposal other than maybe fear itself or maybe a misunderstanding. Anybody who has attended farmers' markets in jurisdictions where they carry out the sale of fruit wines would see that there is not a problem. Plus, if you talk to those farmers' market managers or the wineries, they will explain that to you.

Social responsibility, of course, is always high on everybody's list. What we're saying is Smart Serve would be required of sales personnel. We're also suggesting small regulated samples, although I had a phone call from a winery in Alberta last night and she was telling me they actually don't generally do sampling because it's kind of complicated and takes up a lot of time. She doesn't feel that it really adds that much, but at the moment we would like to keep that in as a possibility.

With regard, as I mentioned, to social responsibility, there's no problem in other jurisdictions. Extension of rules, regulations and taxes of present retail licences is what we're suggesting. Fruit winery owners are professionals, as farmers are professionals, with farmers contributing more to the planet and society, I would argue, than any other group of professionals.

We support MADD of course—that's a given—in their social responsibility campaigns but consider MADD to have a conflict of interest in their marketing opinions because of their close financial relationship with the LCBO. I explained all that in an e-mail.

One that gets thrown out here in Ontario—and of course when I relate it to friends and neighbours and other wineries, they get a big smile on their faces. With regard to international trade, as I understand, that would be federal jurisdiction. Feds do not see a problem and there's no problem with regard to trade or free trade, international trade—whatever—in other jurisdictions. This particular proposal reduces transportation and imports, which is an environmentally desirable thing to do.

0920

Regarding rural economic development: The province of Ontario supports rural economic development. But Pine Farms Winery has gone out of business, and Countryman's Winery, which planned to be here today, is on the brink of going out of business. I'm sure, if anybody has ever been in the same situation as these particular wineries, he would know there's a lot of pain and stress involved with such a situation.

The KPMG report was also included in an e-mail, and that was mentioned by the last speaker. The report states that imports return 67 cents per litre to the Ontario economy, whereas locally grown, fermented, stored and sold fruit wine would return over \$11.50. The KPMG report is on grape wine. However, we all know that if you are buying grapes or growing them, and you're growing raspberries or blueberries, for example, raspberries and blueberries are worth a heck of a lot more per pound than grapes are. A lot fruit wines return more than \$11.50 to the Ontario economy.

If you're wondering where that came from, it comes from the KPMG report, but it's easy to understand and explain. It costs a lot of money to grow crops. Anybody who has ever tried farming would know that farming is not an easy economic picture.

It's a difference of over 17 times. This is a bottle of fruit wine here, which also is the fruit wine that's on the menu here at Queen's Park. If you just think about it, one bottle here, it takes 17 bottles of imported wine over here. You put two, there would be 34 bottles. You'd have two bottles here, 34 bottles over here. That would be the difference between what it returns to the economy. You might think about jobs, you might think about a whole lot of things, but on return to the economy that's a fantastic, unbelievable difference.

The LCBO history and publications: Anybody who gets the Toronto Star would have got one of these nice brochures. If you go into the LCBO, you can get a nice glossy book like this. I'm just using this as an illustration. The LCBO history and publications are proof that the large—they are the largest importer, as I understand it, of alcoholic beverages in the world, and unwieldy, because they are so large. The LCBO does not serve small fruit wineries well. I'd like to draw your attention to the LCBO publication that we received in the Toronto Star. It was advertised by the LCBO as Shari Mogk-Edwards' Top Ten Holiday Picks. Those top 10 picks are from California, France, organic beer from Canada, England, Ireland, Italy, France, VQA Wayne Gretzky—I suppose he got in there because he's a well-known name—and California champagne. That's what you get in your Toronto Star.

There is one Ontario wine in the LCBO's top 10 picks. The track record of the LCBO over the past 10 years has not been conducive to the economic development of the fruit wine industry. The LCBO is a competitor to farm retail fruit wineries and, as such, it is a conflict of business interest for the LCBO to lobby against the extension of retail fruit wineries to farmers' markets. If

you think, you've got your wineries, fruit wineries, you've got your farm wineries, and actually, we're competing with the LCBO, or the LCBO is competing with us. That's just the reality of the marketplace.

We do, of course, support all of the social responsibility initiatives of the LCBO, as well as much of their marketing.

Other jurisdictions were mentioned. In many other jurisdictions, such as New Hampshire, Iowa, New York, Alberta, Quebec, Nova Scotia and New Brunswick, farm wineries can sell at farmers' markets. Why not in Ontario, as the Ontario government researched these jurisdictions to confirm there are no problems with social responsibility or international trade?

As I mentioned, I had a phone call last night from a winery in Alberta and a nice lady, Ms. Chrapko. The winery is called En Santé. She was telling me her father was killed a year and a half ago, not in time to see it actually selling fruit wine at farmers' markets in Alberta, but they're doing that there. I had the one phone call and two e-mails from farmers' markets out in Alberta. And once they've done this, any of these jurisdictions that have done it can't understand why other jurisdictions aren't doing it, because they don't have problems.

The Chair (Mr. Michael Prue): I'm sorry, sir, but the 10 minutes are now up.

Mr. Bert Andrews: Oh, jeez. All right.

The Chair (Mr. Michael Prue): There are no questions. Thank you very much.

Mr. Michael A. Brown: There might be—

The Chair (Mr. Michael Prue): But they can't be asked. I'm sorry, but I'm bound by the Legislature.

SPIRITS CANADA

The Chair (Mr. Michael Prue): The next deputant is Spirits Canada. I have listed Mr. Jan Westcott. Mr. Westcott, the floor is yours. You understand the rules.

Mr. Jan Westcott: Good morning, Mr. Chair, members of the committee. I'm Jan Westcott, and I'm the president of Spirits Canada. I represent the distilled spirits industry here in Ontario as well as across the country. I'm pleased to appear before you this morning to comment on Bill 132, An Act to amend the Liquor Licence Act.

I'm going to be very blunt and frank in my comments, and I hope I don't offend anybody this morning, but my intention is simply to peel away some of the ambiguity and double-talk to get to really what I think the core of the issue before you today is as you review these proposed amendments.

Ostensibly, Bill 132 is designed to improve retail access for Ontario fruit wines by authorizing their sale at Ontario farmers' markets. That sounds pretty innocuous, dare I say even populist. Of course, I think only people who are very disingenuous or naive actually believe either contention. In my view, Bill 132 has little to do with fruit wine and even less to do with consumer access.

Fruit wine is defined in the bill as “wine produced in Ontario from non-grape products, including apples, blueberries, cherries”—a whole list of fruits, all the way to lingonberries, strawberries and honey.

There was an article in the St. Catharines Standard some time ago. You’re going to hear from Jim Warren, but I’m going to quote from him:

“The idea would be to start off by allowing fruit wineries to sell their products at about a dozen markets. Eventually, the plan is to expand it to include small craft grape wineries....

“We don’t want exclusivity on this. We felt it’s the best way to get the process started,’ said Warren....

“Let’s get fruit wines to start it and see what happens.”

I don’t think this should come as any surprise, since after all grapes are fruits, and there’s little or no, in my view, public policy rationale to differentiate between the two. My sense is that the plan here is to include both Ontario grape and fruit wines, starting with fruit wines. So the haze and things are starting to lift and things are becoming a little clearer—except that Ontario is a signatory to Canada’s internal trade agreement, which prohibits the kind of discrimination that would limit any new sales channels to just Ontario wine. So is this really a plan to extend this privilege to all wines across Canada? At the same time, Canada has international trade agreements that require equal access for American, European, Australian—literally all the people that we do business with around the world.

My members sell their whisky that’s made in Ontario in 172 countries, so those trade agreements are extremely important to my members. We have to afford those products from those countries the same rights and privileges as we extend to our own domestic products.

There are some exceptions: the grandfathering in the original FTA and again in NAFTA and then again in the Canada-EU wine and spirits agreement of the private wine stores in Ontario. Those things were grandfathered, with the understanding of all of the trading parties that that was it; there would be no more.

So more and more of the plan is evolving. Apparently, the real plan is to expand access for all wines, regardless of origin.

You have to stop here and pause and ask, “Why stop at farmers’ markets? Why not allow wine sales in small mom-and-pop corner stores that are struggling in these very difficult economic times or, in fact, in independent grocery stores facing tough competition from some of the larger chains?” We’re all reading about Walmart and Loblaws and the battles going on there, and we know that competition in smaller, independent markets is pretty tough.

0930

What’s the compelling reason for farmers’ markets versus other venues? I began my comments by stating that the bill had little to do with fruit wines and even less to do with consumer access. Retail access is typically defined as the ability to be on store shelves in front of

customers. However, you’ve just heard from Mr. Andrews. He was a little more forthcoming when he said, in a similar article, that the problems lie not in the listings or the shelf space but rather in the LCBO’s steep price markup, and we all know about that.

The issue is not getting listings or shelf space at the LCBO. Rather, the objective is to create a new tax-free route to market for select products while other Ontario products, like Canadian whisky, which my members make in Amherstburg, Collingwood, Grimsby and Windsor, are left to foot the bill—whisky, incidentally, that is made from Ontario corn and other grains by Ontario workers.

Is it the intention of this bill to signal that an Ontario fruit farmer is more highly valued than an Ontario grain farmer—and frankly, I was a little shocked to hear the OFA presentation this morning—or that an Ontario winery deserves preferential treatment compared to an Ontario distillery?

As the highest-taxed consumer product sold in Ontario, Ontario spirits suppliers are sympathetic to legislators who believe that Ontario beverage alcohol commodity taxes may be too high. But we respectfully suggest that the answer is not to cherry-pick this or that producer and give them some kind of special treatment. Instead, as we do with virtually every other product, legislators should decide on the overall amount of revenue the Ontario treasury needs to derive from the sale and distribution of alcohol, and then allocate that fiscal burden fairly and evenly across all parties.

As we have seen, even the bill’s supporters recognize that the proposal is a Trojan horse to bypass the LCBO, and in particular the LCBO’s product markups, not just for fruit wines but ultimately for a wide range of local and imported products. As you look at Bill 132, I think we need to look at it in that light.

The Chair (Mr. Michael Prue): Thank you. That leaves four minutes in total, so about a minute and 20 seconds per caucus, starting first with Mr. Miller.

Mr. Paul Miller: I just wanted to know, Mr. Westcott: Is it a problem—the liquor control board, on their shelves, can’t they make fruit wines available through the liquor board? Are you saying that the people who make this don’t want to pay the tax, the higher taxes or higher costs, that would go through the liquor control board?

Mr. Jan Westcott: That’s our view.

Mr. Paul Miller: I’m not a wine drinker but when I walk into a store, you see Ontario wines, lots of shelves for Ontario wines, and you have your import wines. What’s to stop them from having fruit wines in the store as well, in all the retail outlets in Ontario? Is there anything stopping that?

Mr. Jan Westcott: I believe they already sell some fruit wines. No, there is nothing stopping them. The LCBO sells what the customers want to buy.

Mr. Paul Miller: Okay, so really, it’s the cost to the local farmer that they’re concerned about, that the LCBO is taking a bigger cut than they think they should?

Mr. Jan Westcott: Right.

Mr. Paul Miller: Is that what it boils down to, in your opinion?

Mr. Jan Westcott: I believe so, yes.

Mr. Paul Miller: How do you feel about that?

Mr. Jan Westcott: Well, we buy somewhere between—actually, it's 80,000 to 100,000 tonnes of grain in Ontario every year. One distillery down in southwestern Ontario buys 50 square miles of grain. So if the taxes are too high, if they're taking too much money, it's the government's decision to allocate that fairly across all the producers. I think what we're seeing is—

The Chair (Mr. Michael Prue): I've got to stop you there.

Mr. Paul Miller: Okay, thanks.

The Chair (Mr. Michael Prue): Liberals, one minute and 20 seconds.

Mr. Michael A. Brown: Thank you, Mr. Westcott. I take your point. I'm picking up on something Mr. Runciman pointed out, which is that in Quebec they permit the sale of wines and I believe beer—I don't think alcohol—

Mr. Bas Balkissoon: Spirits.

Mr. Michael A. Brown: —or spirits—in convenience stores. We made the decision in Ontario not to go down that road. Do you see this as the same sort of end run?

Mr. Jan Westcott: Well, I'm not going to—

Mr. Robert W. Runciman: You voted for it, didn't you?

Mr. Michael A. Brown: Did you?

Mr. Jan Westcott: I'm not going to ascribe motives. I think that if we want to have a discussion about whether the LCBO is the right mechanism or there should be other mechanisms, let's have that discussion; let's everybody participate. But what I see, and I've seen it for a long time, is that the system keeps getting cherry-picked. This little group gets that, this little group gets this—

Mr. Mike Colle: No pun intended.

Mr. Jan Westcott: Yes, apologies. I'm here today to put my hand up and say, "Hold it, guys." We all produce in Ontario. We all use Ontario raw materials. We all support the farm community. We support the farm community very actively, and we buy a lot of product from the farm community. Enough of this guy over here and that guy over there and not him and not there, because what you're really doing is you're stepping into the marketplace and you're tilting the playing field.

The Chair (Mr. Michael Prue): Okay, that's the full time. Conservatives, Mr. Runciman.

Mr. Robert W. Runciman: Thanks, Mr. Chairman. I guess Mr. Westcott has every right to question my motivation on this. I can tell the committee that my motivation is Countryman's Estate Winery in my riding, a fruit winery, and I've seen the struggles that they've been facing to keep their head above water.

This is a limited opportunity in terms of economic development in rural Ontario. Also, it has a spinoff benefit, I think, which could be significant, in terms of the benefit to tourism. We've seen that, certainly, in the growth of the Niagara region and Prince Edward county,

and the impact that can have on the local economies in terms of attracting tourists, so I think there's real potential here. There's no secret agenda on my part, I can assure you, with respect to other elements.

I have one quick question on trade implications that, Jan, you talked about. We had a number of other Canadian jurisdictions referenced here. Have they had any trade challenges as a result of selling fruit wines at farmers' markets?

Mr. Jan Westcott: No. Ontario's the largest market in Canada. It's 40%. It's also the most lucrative market in Canada. The Scotch Whisky Association—Finland has a—

Mr. Robert W. Runciman: The answer was no, I guess.

Mr. Jan Westcott: Sorry?

Mr. Robert W. Runciman: The answer was no?

Mr. Jan Westcott: Well, we don't know. My guys export \$500 million worth of whisky. If there's a trade fight, it's my products that take it on the chin, because then other countries start to embargo my products. So we don't know the answer to that. And, yes, Canada has had three trade fights around alcohol over access and over taxes that the government of Ontario, in part, has been a party to, granting local domestic suppliers. So there's a history there.

We know that in Finland, which has a comparable system, they propose to—

The Chair (Mr. Michael Prue): I'm going to have to cut you off. I'm sorry. Ten minutes, I think, is not sufficient, but that's all I have.

Mr. Jan Westcott: Fair enough. Thank you very much for your attention.

ONTARIO VINICULTURE ASSOCIATION

The Chair (Mr. Michael Prue): The next listed deputant is the Ontario Viniculture Association—Jim Warren. You have 10 minutes.

Mr. Jim Warren: Thank you very much on this very unpleasant day. It was a two-and-a-half-hour drive over from Hamilton, but I'd like to thank you for the chance to say a few words.

I do recall Mr. Westcott, at one point in his career, was head of the Ontario wine council, and he now represents very much big business. This bill is all about fruit wineries, period. We've asked for a trial. And yet it's not about fruit wineries; it's about small potatoes, because that's what the fruit wine business is all about. That's why the Ontario government hasn't really warmed up to this.

I was going to tell you a little bit about the background of the Ontario wine industry and how we've been a survivor over our 200-year history, making such wonderful products as Bright's Disease and Riki Tiki. We've made a lot of disadvantaged wines in our past. More recently, we've had things like ladybugs and short crops, and always hovering over this industry is the threat of worldwide wine competition.

Long ago, the provincial government made up its mind to support this industry and many times has relaxed regulations and funded opportunities to encourage its development. Today, the industry is once again in turmoil, with thousands of tonnes of unsold grapes, farmers losing their livelihood and wineries withering on the vine. A mere half dozen of our 160-plus wineries account for 90% of Ontario wine sales, wineries that enjoy privileges denied to the remainder, who have to struggle daily for the crumbs. Only some 20% of Ontario wine is VQA, our flagship brand on which the government has spent millions of promotional dollars; 80% is blended wine cellared in Canada that may contain as little as 30% Ontario product.

We're questioning today why this should be so when we are pursuing something local in our history, attempting, with wine, to build a culture of place and origin. How do fruit wines made from fruits other than grapes, or from honey or from maple or other agricultural products, all 100% Ontario in origin, fit into this picture?

In 1993, the Ontario government decided to implement a new viticultural policy called agri-tourism, and in its wisdom, encouraged the development of value-added fruit wineries on fruit farms. In short order, a number of enthusiastic, hard-working, very passionate people opened fruit wineries throughout Ontario, very small operations that would hopefully add value to their business. With the tremendous development since that time in our grape wine industry, fruit wine producers soon came to understand that the wine business is very competitive and challenging, and that it is much more difficult to sell fruit wine in Ontario than grape wine—this in spite of the fact that many fruit wines have won awards in competitions and are quality-certified by the same LCBO panels that evaluate VQA wines.

0940

Ontario fruit wines have received none of the financial support from government so graciously provided to VQA wines. The LCBO has never been able to find a location in their stores for them, in spite of the fact they are 100% Ontario quality-certified products. They sell too slowly and in too little volume for the LCBO. When delivered direct to licensees, they receive none of the additional margin privileges which are given to VQA wines.

For the last nine years, a fruit winery association has attempted to educate government about the issues facing fruit wine producers: the barriers they face, the discriminatory regulations they must operate under and their lack of involvement as a stakeholder in what is considered to be the Ontario wine industry, although they pay the same licence fee as any other winery. All of this now makes it critical that they find increased access to consumers, something other than their rural, low-traffic winery locations.

The sale of fruit wine at farmers' markets is now considered a good part of the solution. Our quest began some five years ago, and it has reached this point today. The current government has refused to see the potential of this sales channel for small wineries and has attempted

to create, rather than eliminate, barriers for its achievement. Considering the success of such activity in many other jurisdictions, particularly Quebec, New Brunswick and many American states close by, and the validation of the plan by many municipalities, politicians—some of them Liberals—the farmers' market people, associations and many concerned individuals across the province, this lack of support from government is not acceptable.

Opening the door to rural producers to sell products derived from their own farms—their own farms—would be a lifeline for many small wineries which simply do not stand a chance in markets dominated by cellared-in-Canada wines, which are completely overshadowed by our VQA system. We have asked for a trial run at this, and we are convinced that it will be successful.

As responsible winery owners, our members are most upset that some people consider our efforts to be socially irresponsible, that we would sell to minors or act in any way that would threaten our winery licences. Nor would such sales lead to the tragic downfall of the LCBO or in any way threaten the success of our VQA wines. If it's acceptable for a handful of wineries to operate 300 independent wine stores in locations all over Ontario—a privilege denied to 95% of other wineries—where a great deal of imported wine is sold in blends, surely it is no less acceptable for a small number of fruit wineries to sell their 100% Ontario products in a small number of farmers' markets in their local areas. "Local" is an operative term today, and it is imperative for all of Ontario agriculture to turn this trend into sustainable reality.

We are about to see significant changes in our grape and wine industry. It's time to make a meaningful change in the status of our fruit wineries. There is no better time than right now, and we ask for and urge your serious consideration of this bill, which will create an appropriate opportunity for some very deserving Ontario farm wineries to continue to survive in the wonderful, but challenging, wine industry.

The Chair (Mr. Michael Prue): There's two and a half minutes, which will be slightly above 45 seconds per caucus. The Conservatives first.

Ms. Sylvia Jones: Thank you, Mr. Warren. I have a question I'm hoping you can answer. What would be the average production of an average Ontario fruit wine producer?

Mr. Jim Warren: Three to five thousand cases.

Ms. Sylvia Jones: That reinforces the value of the local concept of being—

Mr. Jim Warren: The real difficulty for fruit wineries is they have no access to the LCBO. There are one or two that sell there, and that is it. They have very little financial gain when they sell to licensees because of the way the system is set up. It's not the same as for VQA wines. They really have only one outlet, and that is usually out of the way in the country.

The Chair (Mr. Michael Prue): That's the whole time, Mr. Miller.

Mr. Paul Miller: I've got a question. If they levelled the playing field at the LCBO, same as everyone else, same rules for everyone—

Mr. Jim Warren: I doubt if that could ever happen.

Mr. Paul Miller: Well, I'm asking a question first. If they did and went that route, and your lobbying efforts proved to change the mentality of the LCBO with all their hundreds of outlets in every town, just about, in Ontario which people would have access to, would that work for the industry?

Mr. Jim Warren: It would take a considerable change of policy on the part of the LCBO, whose mandate is to make money for Ontario, to allow some fruit wineries into their system. They absolutely will not entertain any product that's going to sit on their shelf and not be picked up by consumers. We can get into the system. We can't make people buy in the system. There's simply too much competition in that LCBO store, as our VQA wineries are discovering today too.

The Chair (Mr. Michael Prue): Time is up. Liberal caucus.

Mr. Michael A. Brown: Would you be supportive of having wine sold at farmers' markets and things like cider—

Mr. Jim Warren: Cider is fruit wine.

Mr. Michael A. Brown: You would consider cider a fruit wine?

Mr. Jim Brown: Yes; it's made from apples.

Mr. Michael A. Brown: So are you supportive of regular wine that we could buy—

Mr. Jim Warren: I represent an association of over 100 Ontario wineries, more than the Wine Council of Ontario. Many of those are tiny operations that would love to have the chance to sell at a farmers' market. I believe some form of restriction could be applied, although I'm not happy with having restrictions in that sense. We would like to see the opportunity extended, perhaps to wineries that do not sell in the LCBO system, for example.

Mr. Michael A. Brown: I'm told 20 LCBO stores do carry fruit wine.

The Chair (Mr. Michael Prue): I've got to cut you off. I'm sorry; 45 seconds isn't very long.

I believe Mr. Chorney has not arrived yet. Is Mr. Chorney here? We're going to skip that presentation by the Farmers' Markets.

Interruption.

The Chair (Mr. Michael Prue): Okay, that's fine. We'll deal with him if he arrives before 10 o'clock.

ONTARIO IMPORTED WINE-SPIRIT-BEER ASSOCIATION

The Chair (Mr. Michael Prue): The next group is Ontario Imported Wine-Spirit-Beer Association. Ian Campbell, I have listed. Mr. Campbell, the floor is yours. You know you have 10 minutes to use however you wish.

Mr. Ian Campbell: Good morning. My name's Ian Campbell; I'm the executive director of the Ontario Imported Wine-Spirit-Beer Association. I'm appearing before the standing committee this morning to outline our

association's strong opposition to Bill 132, the Liquor Licence Amendment Act (Fruit Wine), 2009.

Established in 1958, the Ontario Imported Wine-Spirit-Beer Association is the provincial trade association representing manufacturers, agents, importers, marketing groups, international trade offices and distributors of imported beverage alcohol products in Ontario. Our association represents more than 90% of all imported beverage alcohol products sold in Ontario. Our members are Ontario businesses that provide direct and secondary employment to at least 1,700 people across the province.

Members of our association are strongly opposed to Bill 132. As you're aware, this bill seeks to establish a licence to enable manufacturers of fruit wine to sell the fruit wine at farmers' markets in Ontario if the fruit wine meets the standards for sale at government stores.

The spirit and intent of Bill 132 is to secure new retail opportunities that will benefit local wineries. It provides no benefit for imported wine suppliers. All sales of imported wines in Ontario are channelled through the LCBO. This bill presents no new retail opportunities for imported wine suppliers. The bill's apparent discrimination against imported wine suppliers is inconsistent with the national treatment requirements of current international trade agreements to which Canada, and by extension the government of Ontario and the LCBO, is a party.

Restrictions governing privately operated beverage alcohol retail outlets in Ontario date back to the signing of the Canada-US free trade agreement in October 1987. The FTA introduced strict national treatment obligations for signatories on a prospective basis. The FTA did not prevent the continuation or prompt renewal of non-conforming provisions of any existing measure. All Ontario winery retail stores in operation, in the process of being built, or for which an application to operate had been approved by the LCBO on or before October 4, 1987, were effectively grandfathered. Wine sales from such stores are limited to only those products made by that manufacturer.

0950

Canada's national treatment obligations deepened with the implementation of the North American free trade agreement in January 1994 and the Canada-European Community wine and spirits agreement in June 2004.

We note that article C of the Canada-EC agreement, the most recent agreement signed, states, "Canadian competent authorities shall accord national treatment and most-favoured-nation treatment to alcoholic beverages that are the product of the Community in accordance with the WTO agreement. With respect to a province, national treatment and most-favoured-nation treatment shall mean treatment no less favourable than the most favourable treatment accorded by such province to any like goods that are the product of Canada or of any third country." Canada's national treatment obligations are clearly spelled out in each of these free-trade agreements.

Article F of the Canada-EC agreement gave the European Community the right to request an independent

audit of any liquor board's cost-of-service differential, in line with standard accounting procedures, within one year of entry into force of the agreement. That right was exercised here in Ontario and in two other provincial liquor jurisdictions. This technical point shows that the LCBO's and other jurisdictions' treatment of imported beverage alcohol products is being watched very closely. Taken any further, it's likely that the enactment of Bill 132 would prompt a trade challenge. The prospects of a successful defence are not promising.

We note that the Beverage Alcohol System Review Panel retained independent counsel as it considered comprehensive changes to Ontario's beverage alcohol retailing and distribution system. Proposals to establish new retailing opportunities for Ontario wineries were put forward for consideration by the panel. They were dismissed out of hand on the strength of a legal opinion secured by the panel which cited inconsistencies with Ontario's international trade obligations.

Supporters of Bill 132 are no doubt aware of trade sensitivities that surfaced in 2005, when an attempt was made to secure passage of Bill 7, the VQA Wine Stores Act. That private member's bill also sought to secure new retail privileges for Ontario wineries.

Concerns have been expressed about a lack of retail opportunities for small Ontario wineries. Those concerns are not unique to Ontario suppliers. They're shared by similarly sized suppliers in the 70-plus international jurisdictions from which the LCBO sources product. In the context of a free trade environment, any measures to assist these domestic suppliers must also assist imported beverage alcohol suppliers. Bill 132 fails to take this into account.

Our association supports unfettered competition, both at home and abroad. We're committed to a shared marketplace in Ontario and a level playing field for all industry suppliers. We support a strong and prosperous Ontario wine industry, as the accomplishments of this industry reflect positively on the whole of the beverage alcohol industry.

I should note that, despite our primary focus on imported products, our members also represent the products of numerous small Ontario wineries and some small breweries. Our members have been instrumental in helping Ontario wineries to grow their businesses through cost-effective representation to licensed establishments right across Ontario.

In closing, we urge members of the Standing Committee on Regulations and Private Bills to recognize the government of Ontario's international trade obligations and the significant limitations that they place on any changes to Ontario's beverage alcohol retailing and distribution network.

In light of these ongoing trade agreement obligations, we urge committee members to reject Bill 132.

Thank you.

The Chair (Mr. Michael Prue): Thank you very much. You've left a minute and a half for each caucus, starting with Mr. Miller.

Mr. Paul Miller: So you feel that it's going to affect, from what I can see, your list of all kinds of suppliers for the industry—transportation, advertising, and all of these. Do you feel they will be negatively affected by the fruit wine industry?

Mr. Ian Campbell: The opportunity cost of that?

Mr. Paul Miller: Yes.

Mr. Ian Campbell: Those industries are being supported right now.

Mr. Paul Miller: Okay, but do you feel that the fruit growers are going to cause a problem for all these other types of businesses? You even had armoured cars on there.

Mr. Ian Campbell: Consumers only have so much money, so if they spend it on fruit wines, they probably wouldn't spend it on a wine that they're not spending it on right now.

Mr. Paul Miller: Thank you.

The Chair (Mr. Michael Prue): Thank you. Liberal caucus: Mr. Brown.

Mr. Michael A. Brown: It's an interesting presentation. In your view, if the province of Ontario, or any jurisdiction for that matter, provided support to the fruit wines sector through advertising, promotion or any of those means that governments have of helping a fledgling industry get off its feet, would that be, in your view, a contravention of trade law?

Mr. Ian Campbell: It's going on right now. The government of Ontario supports the domestic wine industry to the tune of about \$30 million a year for grape-based wineries.

Mr. Michael A. Brown: So your opinion is that it would be possible for the government of Ontario to do that?

Mr. Ian Campbell: If it's consistent with trade agreement obligations, absolutely—entirely supportive.

Mr. Michael A. Brown: Thank you.

The Chair (Mr. Michael Prue): Thank you. Conservative side: Mr. Runciman.

Mr. Robert W. Runciman: I have to say that it's kind of disconcerting to have two guys I used to work with coming here to oppose my legislation.

In any event, I think an important line in Mr. Campbell's presentation is that the primary focus of the organization he represents is on an imported product, so I think we should keep that in mind. Apparently there's some concern, as Mr. Westcott said, that this is some kind of a Trojan horse or the thin edge of the wedge and this is going to open the door to all sorts of things happening in alcohol distribution and retail operations in Ontario. Certainly, if you look at the legislation, we're talking about special licences being issued.

If you look at something like this being limited to, say, 20 or 30 farmers' markets across the province, do you see that as some kind of real threat to you? Do you see it as some kind of challenge in terms of trade obligations? We have not had any challenges in the other jurisdictions that are utilizing this.

Mr. Ian Campbell: If it was one winery and one outlet, regardless, it's a violation of national free-trade obligations—

Mr. Robert W. Runciman: Why isn't it happening in other jurisdictions?

Mr. Ian Campbell: In terms of measures of effectiveness, I can't speak to that, but it's a violation of free-trade obligations, and for that reason, it won't stand.

Mr. Robert W. Runciman: I don't buy that.

The Chair (Mr. Michael Prue): Okay. Thank you very much.

I'm proposing, at this point, since Mr. Chorney has not arrived, that we hold that matter down. If he arrives any time before 10:15—or, if time allows, because I'm also conscious of the time and that there may be bells rung for a vote. But we can proceed, if the committee agrees, to start clause-by-clause at this point. Is there agreement to start at this point? I'm not hearing any noes, so okay. We will start with clause-by-clause.

Mr. Michael A. Brown: Inadvertently, I don't have a copy of the bill with me.

The Chair (Mr. Michael Prue): I don't have one either. I'm waiting for the clerk to pass me one. I did have a copy but it's buried in a mound of paper on my desk.

Interjections.

The Chair (Mr. Michael Prue): It seems like a number of committee members—and that's why we have a clerk here who is always ready.

I should state, for the record, that legislative counsel has been summoned but is not here yet, so if there are any questions, we will have to hold that down if we have to draft any amendments.

We are going to proceed, as always in these bills, by going through the sections and the titles and things. I'm waiting for the clerk to give me a copy of those things upon which we must vote, to make sure, because this is complex—you miss one and the whole thing is null.

Mr. Robert W. Runciman: What would we do without the clerks?

The Chair (Mr. Michael Prue): Yes.

Thank you very much. You're always ready.

Section 1: First of all, is there any discussion or amendments? Mr. Miller.

Mr. Paul Miller: You're removing subsection 6(4) and replacing it with section 12.1, but it doesn't give me an explanation of what you're replacing. It's just one piece of paper. I don't know what you're replacing or what—define it in terms.

The Chair (Mr. Michael Prue): Are you seeking an answer from the mover or are you waiting for legislative counsel to arrive?

Mr. Paul Miller: How about we take a 20-minute break so that someone can give me some—

The Chair (Mr. Michael Prue): If you are requesting a 20-minute break, quite frankly, I'm going to have to say that the meeting is adjourned until this afternoon, or recessed—

Mr. Paul Miller: I'm requesting a 20-minute break, because there's no explanation here.

The Chair (Mr. Michael Prue): All right, then. We are now recessed until this afternoon. Just so members and the audience can understand, any member who requests a 20-minute recess on a vote is entitled to it. But are you requesting—

Mr. Michael A. Brown: This is not a vote.

The Chair (Mr. Michael Prue): This is not a vote, but when we get to the vote, if you want, you can do so.

Mr. Paul Miller: Okay.

The Chair (Mr. Michael Prue): Okay? So that may in fact happen.

Is there any discussion on section 1? Is there any discussion?

Seeing no discussion, you may now make the request.

Mr. Paul Miller: I request a 20-minute recess so that somebody can give me some information on what we're replacing and putting in, because there's nothing here.

The Chair (Mr. Michael Prue): All right, then. It is automatic, so we are now recessed until noon. Again, what I said earlier, in case anyone missed it, is that we will be starting promptly at noon.

Mr. Mike Colle: Quorum or no quorum, we will start.

The Chair (Mr. Michael Prue): At 12 o'clock, we must start.

Mr. Mike Colle: No quorum required.

Mr. Tony Ruprecht: Unless there's a vote.

The Chair (Mr. Michael Prue): We will be starting at noon. If someone wants to ask if there is a quorum at that time, then we will determine whether or not there is. But we are starting at noon.

Mr. Mike Colle: No, we don't have to in this committee. No quorum required.

The Chair (Mr. Michael Prue): Okay. Everybody understand? All right. We are recessed until noon.

The committee recessed from 1001 to 1209.

The Chair (Mr. Michael Prue): The meeting is resumed. I apologize. It's hard getting down the stairs.

Mr. Paul Miller: A request, Mr. Chairman. Mr. Chorney was unable to be here because of the weather—five hours getting here. He has requested that I ask if he can give his 10-minute presentation, because he drove through a storm for five hours.

The Chair (Mr. Michael Prue): I have the greatest of sympathy, but the House set that all the people who were députants had to make their députation in the morning. I'm sorry, Mr. Chorney, but that's the rule of the House. We have to follow it.

Okay, there's a vote on the floor on section 1. Shall section 1 carry? All those in favour?

Mr. Robert W. Runciman: Recorded vote.

The Chair (Mr. Michael Prue): On a recorded vote.

Ayes

Jones, Runciman.

Nays

Balkissoon, Brown, Colle, Ruprecht.

The Chair (Mr. Michael Prue): That does not carry. It's lost.

Are there any amendments or discussion on section 2?

Mr. Paul Miller: Mr. Chairman, I'd like to have section 2 explained to me, because I've only got—maybe legislative counsel can explain the change and how it affects the legislation.

Mr. Michael Wood: Michael Wood, legislative counsel. This bill amends the Liquor Licence Act, and the Liquor Licence Act, in section 5, has a prohibition that you basically can't deal with liquor unless you have a licence, and the act goes on to specify how you can get a licence. Section 6, subsection (4), says that a manufacturer can't get a licence, but this bill creates a new section 12.1, which allows a manufacturer of fruit wine to get a licence, and therefore deal with liquor. That is, in summary form, an answer to your question.

Mr. Paul Miller: Thank you.

The Chair (Mr. Michael Prue): Is there any discussion? Any motions? Seeing none, shall section 2 carry?

Mr. Robert W. Runciman: Recorded vote.

Ayes

Jones, Runciman.

Nays

Balkissoon, Brown, Colle, Ruprecht, Sergio.

The Chair (Mr. Michael Prue): That does not carry. Section 3: Are there any questions? Mr. Runciman.

Mr. Robert W. Runciman: Just a quick comment: Obviously, the government members have made a decision to reject this legislation. I think it's unfortunate for the agricultural industry and people who are struggling in many parts of the province.

This is a very modest initiative. We talked about pilot programs, and what we've heard is big business, really, suggesting that this is some sort of a secret deal that's going to do damage to the alcohol retail and distribution systems in the province of Ontario. It's just shameful. If you look at Spirits Canada, for example, they'll sell more Johnnie Walker Red in a year than we'll see produced as a result of allowing these small operators to help the province of Ontario, help the economies of rural Ontario, and help, ultimately, the tax coffers of the province of Ontario. So it's unfortunate we're seeing this occur today.

The Chair (Mr. Michael Prue): Any questions? Any amendments? Any other discussion? Seeing no discussion, shall section 3 carry?

Mr. Robert W. Runciman: Recorded vote.

Ayes

Jones, Runciman.

Nays

Balkissoon, Brown, Colle, Ruprecht, Sergio.

The Chair (Mr. Michael Prue): That is not carried. It's lost.

Section 4: Any questions? Any statements? Any amendments?

Mr. Robert W. Runciman: Recorded vote.

Ayes

Jones, Runciman.

Nays

Balkissoon, Brown, Colle, Ruprecht, Sergio.

The Chair (Mr. Michael Prue): That section is lost. On to section 5: Any discussion on section 5?

Ms. Sylvia Jones: Chair, do I have the opportunity to ask the members of the Liberal caucus why they have changed their decision from when they were supporting the private member's bill when it came forward in November 2008?

The Chair (Mr. Michael Prue): You have the right to ask the questions, but they also have the right not to answer them, if they choose not to.

Ms. Sylvia Jones: I'm curious as to why—

Mr. Mike Colle: Chair, we're in the middle of a vote.

Ms. Sylvia Jones: —on November 20, 2008, when we debated this in—

The Chair (Mr. Michael Prue): No, we're not in the middle of a vote. I asked if there was any discussion on section 5.

Ms. Sylvia Jones: I'm curious as to what happened between November 20, 2008, when we debated this in the Ontario Legislature and received unanimous consent, that suddenly, between then and now, we have the Liberal members, in full, collectively, deciding that selling fruit wine at farmers' markets is going to be the end of Ontario as we know it.

The Chair (Mr. Michael Prue): Further debate?

Mr. Michael A. Brown: Quickly, I don't think that we believe that this is the end of Ontario as we know it. What we believe is that selling wine of any kind at farmers' markets is not a good idea. Clearly, that is our view.

Ms. Sylvia Jones: So you believe that fruit wine producers are not capable of maintaining the same quality and levels of service that are currently available at LCBO stores, at liquor stores, at restaurants? You don't trust the fruit wine producers of Ontario to have those same standards?

Mr. Michael A. Brown: No, I do trust them, and I believe they have the same opportunity as every other wine producer.

The Chair (Mr. Michael Prue): Mr. Runciman.

Mr. Robert W. Runciman: I think, if nothing else, this process has allowed us to see where the Liberals really stand on this issue. I think they felt that they could have it both ways during second reading debate, when we had the parliamentary assistant to the Minister of Agri-

culture speaking glowingly in terms of allowing this to happen and other Liberal members very supportive.

Of course, their view with private members' bills is that it would never get to this stage, but it happened to be part of the negotiation last June amongst the House leaders that the Progressive Conservative caucus put this as our top priority so that it would be carried forward to public hearings. Of course, we went through another process in terms of getting it transferred to this committee, and I thank the NDP for their support in ensuring that at the House leaders' meeting that happened.

But now we're seeing the true colours of the Liberal Party. They wanted to have it both ways: to vote for it on second reading and make sure the thing died. Now they have to deal with it and we're seeing where they really stand on this. What they're doing is favouring big business, which also translates into big donors, over the people who are struggling in rural Ontario today.

The Chair (Mr. Michael Prue): Any further debate? Then we have a motion before us. Shall section 5 carry?

Mr. Robert W. Runciman: Recorded vote.

Ayes

Jones, Runciman.

Nays

Balkissoon, Brown, Colle, Ruprecht, Sergio.

The Chair (Mr. Michael Prue): That's lost.

We're down to the last, which is the title. Is there any discussion on section 6? Any discussion? Seeing none, shall section 6 carry?

Mr. Robert W. Runciman: Recorded vote.

Ayes

Jones, Paul Miller, Runciman.

Nays

Balkissoon, Brown, Colle, Ruprecht, Sergio.

The Chair (Mr. Michael Prue): That's lost.

Shall the title of the bill carry? Any discussion on that? All those in favour? I heard a no. Do you want a recorded vote on this?

Mr. Robert W. Runciman: It doesn't matter.

The Chair (Mr. Michael Prue): It doesn't matter? That means no. Okay. All those in favour of the title of the bill? All those opposed? That is lost.

I still have to ask the question: Shall Bill 132 carry? I heard some noes. Do you want a recorded vote?

Mr. Robert W. Runciman: Recorded vote.

Ayes

Jones, Runciman.

Nays

Balkissoon, Brown, Colle, Paul Miller, Ruprecht, Sergio.

The Chair (Mr. Michael Prue): That is lost.

Shall the bill be not reported to the House? All those in favour of not reporting it to the House? Opposed? That carries.

Thank you. The meeting is adjourned.

The committee adjourned at 1219.

CONTENTS

Wednesday 9 December 2009

Liquor Licence Amendment Act (Fruit Wine), 2009, Bill 132, Mr. Runciman / Loi de 2009 modifiant la Loi sur les permis d'alcool (vin de fruits),	
projet de loi 132, M. Runciman	T-127
Ontario Federation of Agriculture	T-127
Mr. Patrick Lambrick; Mr. David Armitage	
Fruit Wines of Ontario	T-129
Mr. Bert Andrews	
Spirits Canada	T-130
Mr. Jan Westcott	
Ontario Viniculture Association	T-132
Mr. Jim Warren	
Ontario Imported Wine-Spirit-Beer Association	T-134
Mr. Ian Campbell	

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T-20

T-20

ISSN 1180-4319

Legislative Assembly of Ontario

First Session, 39th Parliament

Official Report of Debates (Hansard)

Wednesday 24 February 2010

Standing Committee on
Regulations and Private Bills

Registered Retirement Savings
Protection Act, 2010

Safer Communities
and Neighbourhoods Act, 2010

Assemblée législative de l'Ontario

Première session, 39^e législature

Journal des débats (Hansard)

Mercredi 24 février 2010

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Telephone 416-325-7400; fax 416-325-7430
Published by the Legislative Assembly of Ontario



Service du Journal des débats et d'interprétation
Salle 500, aile ouest, Édifice du Parlement
111, rue Wellesley ouest, Queen's Park
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Publié par l'Assemblée législative de l'Ontario

LEGISLATIVE ASSEMBLY OF ONTARIO

**STANDING COMMITTEE
ON REGULATIONS
AND PRIVATE BILLS**

Wednesday 24 February 2010

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

**COMITÉ PERMANENT DES
RÈGLEMENTS ET DES PROJETS DE LOI
D'INTÉRÊT PRIVÉ**

Mercredi 24 février 2010

The committee met at 0903 in room 151.

**REGISTERED RETIREMENT SAVINGS
PROTECTION ACT, 2010**

**LOI DE 2010 SUR LA PROTECTION
DES RÉGIMES ENREGISTRÉS D'ÉPARGNE
EN VUE DE LA RETRAITE**

Consideration of Bill 96, An Act respecting protection for registered retirement savings / Projet de loi 96, Loi visant à protéger les régimes d'épargne-retraite enregistrés.

The Chair (Mr. Michael Prue): Let's get this meeting under way. We're going to do a couple of things today.

First of all, we're going to deal with Mr. Leal's bill; that is, Bill 96, An Act respecting protection for registered retirement savings. At the conclusion of that, if there is still time—and I anticipate that there may be—we're going to move to the second bill before us, which is Bill 106, standing in the name of Mr. Naqvi, An Act to provide for safer communities and neighbourhoods.

On the last occasion of Mr. Leal's bill, if my memory serves me correctly, there was a request for a 20-minute time-out to caucus. That 20 minutes having expired, we are now moving to the amendment, which was an amendment—

The Clerk of the Committee (Mr. Trevor Day): An amendment to the amendment.

The Chair (Mr. Michael Prue): Excuse me; it's the amendment to the amendment. This was moved by Mr. Leal and, just so everybody has it in front—you can understand, because it has been some time. Yes, his motion was that "the motion to amend the bill by adding section 4.1 be amended by striking out subsection 4.1(2)."

Mr. Jeff Leal: And the original has been—

The Chair (Mr. Michael Prue): And the original—you also have that before you. So we're dealing with the amendment to the amendment. Is there any discussion?

The Clerk of the Committee (Mr. Trevor Day): We've got to vote.

The Chair (Mr. Michael Prue): We've got to vote. I'm sorry—not even any discussion. This is the amend-

ment. All those in favour of the amendment to the amendment? Opposed? That carries.

Which takes us back to the main motion, as amended, also moved by Mr. Leal. Mr. Leal, the floor is yours to move it.

Mr. Jeff Leal: It has already been moved.

The Chair (Mr. Michael Prue): My memory is not as good as—okay, it has already been moved. Any discussion on the motion, as amended? No discussion? All those in favour of the amendment? Opposed? That carries.

Are there any amendments to section 5? Is this properly before us? Mr. Leal, just so everybody understands, there was a motion last time, or a purported motion, that subsection 5(2) of the bill—you're aware of that motion? You have it before you?

Mr. Jeff Leal: Yes.

The Chair (Mr. Michael Prue): Do you wish to move it?

Mr. Jeff Leal: No.

The Chair (Mr. Michael Prue): Are there any other motions? Does anybody else have any other motions?

Any discussion on section 5? None? Okay. Shall section 5 carry? Carried.

Numbers 6 and 7 were previously carried, as well as the title.

All that is left on this bill is: Shall the title of the bill—no, we've done that. Shall Bill 96, as amended, carry? Carried.

Shall I report the bill, as amended, to the House? Carried.

That's the end of that one. That was pretty rapid.

**SAFER COMMUNITIES
AND NEIGHBOURHOODS ACT, 2010**

**LOI DE 2010 SUR LA SÉCURITÉ ACCRUE
DES COLLECTIVITÉS ET DES QUARTIERS**

Consideration of Bill 106, An Act to provide for safer communities and neighbourhoods / Projet de loi 106, Loi visant à accroître la sécurité des collectivités et des quartiers.

The Chair (Mr. Michael Prue): Which takes us to Mr. Naqvi's bill, which is Bill 106.

Interjection.

The Chair (Mr. Michael Prue): We're just going to give the clerk a second here to make sure that we're on track and nothing gets missed. Legislative counsel has to change seats.

On the last occasion, Mr. Martiniuk had made an amendment to the amendment. You have that before you in the package. It is the second document, the amendment to the amendment. Mr. Martiniuk has moved it. It is now open for debate. Mr. Martiniuk, I would recognize you, if you want to explain your amendment to the amendment.

Mr. Gerry Martiniuk: I'm looking for it. Which—

The Chair (Mr. Michael Prue): It's 4.2.1. I have it on page 2 of my package. In the top right-hand corner it reads, "Mr. Martiniuk motion."

Mr. Gerry Martiniuk: Yes. I wanted to merely ensure that the director had received, as I had stated, the proper training, oaths and scope of employment. In effect, they are making semi-judicial decisions. I think it's only fair, if we're going to be judged in our society, that the person who is judging us have minimum requirements for training, and the fact that they're acting in good faith. I don't think it's a radical motion; I think it makes a great deal of sense.

The Chair (Mr. Michael Prue): Further discussion? Seeing none, all those in favour of the amendment to the amendment? Those opposed? That is defeated.

Which takes us back to Mr. Colle's motion, which is the first one in my package. Has this been moved? Yes, it has been moved. Any debate on this motion? Seeing no debate, shall it carry? Carried.

Shall section 4, as amended, carry? Carried.

Section 5: Are there any amendments to section 5? I don't have any, but are there any amendments? There being no amendments, any discussion on section 5? There being no discussion, all those in favour of section 5? Opposed? That carries.

Section 6: Are there any amendments to section 6? Any proposed amendments? No. Any discussion on section 6? Seeing no discussion, all those in favour of section 6? Opposed? That carries.

0910

Section 7: Any discussion on section 7? No discussion on section 7. I'll come to the vote. All those in favour of section 7? Opposed? That carries.

Section 8: I have a motion that has been filed here, and it has been moved? No, it has not been moved.

Mr. Naqvi, this is the one with your name in the top right-hand corner, so I'll go to you.

Mr. Yasir Naqvi: I move that section 8 of the bill be amended by adding the following subsections:

"Multiple frivolous or vexatious complaints

"(3) If the Director has determined that three complaints from the same complainant in respect of the same activities on or near the same property have been frivolous or vexatious, the Director may give the complainant written notice that if the complainant makes a subsequent complaint in respect of the same activities on or near the same property, the complainant may be required to pay for costs associated with processing the

complaint, not exceeding the amount prescribed by the regulations.

"Costs

"(4) If the Director has given a notice to a complainant under subsection (3), the Director may, upon receipt from the complainant of a subsequent complaint mentioned in that subsection, require the complainant to pay to the Director the costs associated with processing the complaint, not exceeding the amount prescribed by the regulations."

The Chair (Mr. Michael Prue): Discussions? Any discussion? Seeing no discussion, all those in favour of the motion? Opposed? That carries.

Shall section 8, as amended, carry? Carried.

We now move to section 9. You have another motion again with Mr. Naqvi's name in the top right-hand corner. I don't believe it has been moved.

Mr. Naqvi, the floor is yours.

Mr. Yasir Naqvi: I move that subsection 9(3) of the bill be amended by striking out "the application" and substituting "an application for a community safety order."

The Chair (Mr. Michael Prue): The motion is properly before us. Any discussion of the motion? Seeing none, all those in favour? Opposed? That carries.

Shall section 9, as amended, carry? Carried.

We have sections 10 through 14. We don't have any amendments before us, but let's just err on the side of safety.

Section 10: Is there any discussion on section 10? Shall section 10 carry? Carried.

Section 11: Is there any discussion on section 11? Shall section 11 carry? Carried.

Section 12: Is there any discussion on section 12? Shall section 12 carry? Carried.

Section 13: Is there any discussion on section 13? No discussion. Shall section 13 carry? Carried.

Section 14: Is there any discussion on section 14? No discussion. Shall section 14 carry? Carried.

Section 15: I do have a proposed amendment here with Mr. Naqvi's name in the top right-hand corner.

Mr. Gerry Martiniuk: Chair, I have no objections nor any amendments to any of the individual sections and will only speak when we come to the bill.

The Chair (Mr. Michael Prue): Thank you.

Mr. Yasir Naqvi: I move that subsection 15(8) of the bill be amended by striking out "a variation order" in the portion before clause (a) and substituting "a variation order under this part."

The Chair (Mr. Michael Prue): Any discussion on the motion? Seeing none, all those in favour? Opposed? That carries.

Shall section 15, as amended, carry? Carried.

Section 16: Is there any discussion on 16? Seeing no discussion, shall section 16 carry? Carried.

Section 17: I have a further motion in front of me, item number 8 in the name of Mr. Naqvi.

Mr. Yasir Naqvi: I move that subsection 17(4) of the bill be amended by striking out "it may, in addition to

any other order for costs, order the complainant to pay costs to the Director" and substituting "it may order the complainant to pay costs to one or more of the Director, the respondent and the resident."

The Chair (Mr. Michael Prue): I'm just wondering—the motion that I have, should it not read "Directors"? I'm just thinking in terms of grammatical sense: "to one or more of the Director..."?

Mr. Yasir Naqvi: There's only one director. It's a full cap D; it's defined.

The Chair (Mr. Michael Prue): All right. I just wanted to make sure. It just didn't make grammatical sense, but it might make legal sense. They're not always the same.

Mr. Yasir Naqvi: It's a defined term.

The Chair (Mr. Michael Prue): All right. Any discussion on this motion? Seeing no discussion, all those in favour of the motion? Opposed? That carries.

Shall section 17, as amended, carry? Shall section 17, as amended, carry? I don't see anyone voting.

Mr. Yasir Naqvi: Carried.

The Chair (Mr. Michael Prue): Carried. Okay.

I have no other proposed amendments. We can do them one at a time, but that's probably wasteful. Are there any other amendments that anyone wants to propose in any of the other sections, 18 through 43?

Mr. Mario Sergio: I've been thinking about it.

The Chair (Mr. Michael Prue): You've been thinking about it? Okay. Can we deal with them all at once? Shall sections 18 through 43 carry? Carried.

The next item—we're getting near the bottom here: Shall the title of the bill carry? Carried.

Shall Bill 106, as amended, carry? Mr. Martiniuk had already indicated his wish to speak to this.

Mr. Gerry Martiniuk: Very shortly, I thank Mr. Naqvi for bringing this before us. I understand his motive and agree with it. I think we all agree that we are concerned about the safety of our communities and the individuals therein.

Unfortunately, I cannot support this bill because I believe it adds an additional layer of bureaucracy, a paid bureaucracy and a paid cost. I realize the bill is permissive, not compulsory, for municipalities; however, I am concerned about the extra cost. I'm also concerned that we will inject a bureaucracy which may discourage individuals who are presently working with the same aims in our communities as volunteers from volunteering. We have Neighbourhood Watch groups, in our municipality we have a crime prevention council—all

volunteers, all working with the same intent, to make our communities safer.

I believe that this is a needless level of bureaucracy and therefore, though I admire the motives and agree with the motives, I cannot support the bill.

The Chair (Mr. Michael Prue): Mr. Tabuns.

Mr. Peter Tabuns: I understand the basis upon which Mr. Naqvi has brought forward this bill. I've dealt with disruptive houses in my riding. The problems that were outlined by my colleague Cheri DiNovo with the bill I think are valid. I think that there will be problems arising from this that you may not intend in your original drafting of this piece of legislation. I hear, on a regular basis, commentary about keeping out people from a neighbourhood that often has nothing to do with their behaviour but everything to do with their complexion. Anything that expedites the moving people out of neighbourhoods based not on law but on potential prejudice is something that I see as highly problematic.

This bill does not propose moving people out of neighbourhoods based on their complexion or their ethnic background, but I can tell you now that in a lot of neighbourhoods the identification of problem houses will follow those lines. That's a huge problem.

I intend to vote against this, but I understand why it was brought forward. I just don't think it's going to solve the problem.

The Chair (Mr. Michael Prue): Further debate?

Mr. Gerry Martiniuk: Recorded vote.

The Chair (Mr. Michael Prue): If there is no further debate, we have a request for a recorded vote.

Ayes

Johnson, Leal, Naqvi, Sergio.

Nays

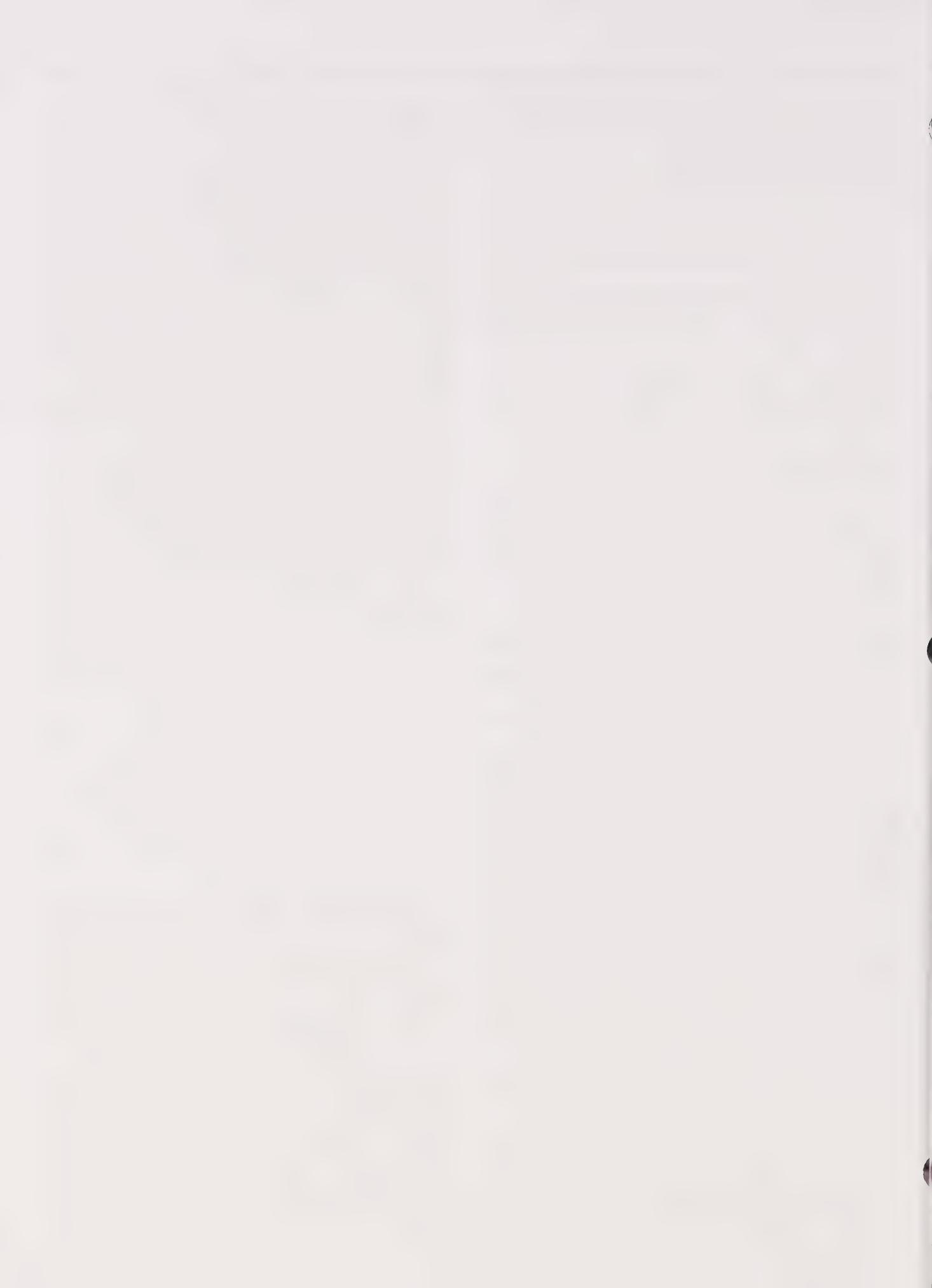
Martiniuk, Tabuns.

The Chair (Mr. Michael Prue): That carries.

Shall I report the bill, as amended, to the House? Agreed? Agreed.

Thank you very much. I'm absolutely shocked and astounded. I thank the committee for its work. We're finished at 20 after nine. The meeting is adjourned.

The committee adjourned at 0921.



CONTENTS

Wednesday 24 February 2010

Registered Retirement Savings Protection Act, 2010, Bill 96, Mr. Leal / Loi de 2010 sur la protection des régimes enregistrés d'épargne en vue de la retraite, projet de loi 96, M. Leal.....	T-139
Safer Communities and Neighbourhoods Act, 2010, Bill 106, Mr. Naqvi / Loi de 2010 sur la sécurité accrue des collectivités et des quartiers, projet de loi 106, M. Naqvi.....	T-139

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